

CHAPTER 7

PUBLIC COMMENTS AND RESPONSES

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CHAPTER 7 PUBLIC COMMENTS AND RESPONSES

7.1 INTRODUCTION

This chapter contains copies of public comments received in response to the Smoky Canyon Mine, Panels F and G Lease and Mine Plan Modification Project DEIS. The agencies' responses to substantive comments are provided adjacent to the reproduced comment letters. A total of seven public comments and/or letters were received on the DEIS.

Letter 1	The Town of Afton
Letter 2	Casper Appenay
Letter 3	EPA
Letter 4	Board of Lincoln County Commissioners
Letter 5	Adam G. Koch
Letter 6	J. R. Simplot Company
Letter 7	Greater Yellowstone Coalition

7.2 COMMENT LETTERS AND RESPONSES

LETTER NUMBER/ COMMENT NUMBER	LETTER CONTENTS	RESPONSE NUMBER AND RESPONSE
Letter #1	<p>THE TOWN OF AFTON 416 Washington St. P.O. Box 310 Afton, WY 83110-0310 Phone (307) 885-9831</p> <p>Bureau of Land Management/USFS June 16th, 2014 Panels F and G Lease and Mine Plan Modification Project EIS 8160 South Highland Drive Sandy, Utah 84093</p> <p>Re: Town of Afton Support of the Smoky Canyon Mine</p> <p>Dear BLM/USFS,</p> <p>The Town of Afton strongly supports the J.R. Simplot Company's Smoky Canyon Mine expansion plans, (Panels F and G Lease and Mine Plan Modification Plan). We are encouraged with Simplot's plans, and have briefly looked over the draft EIS plan as presented. At this time, we strongly encourage our partners at BLM/USFS to allow modifications to both panel's F and G (lease agreement) - so that the company can continue to prudently expand its business operations.</p> <p>As one of our largest employers in Afton, the economical support this single company has on our community cannot be overstated. J.R. Simplot Company has a prudent track record of mine operations, and we are thrilled that the company continues to look to expand.</p> <p>Thank you for your consideration regarding this matter.</p> <p>Sincerely,</p> <p>Loni Hillyard, Mayor of Afton</p>	<p><u>Response 1-1</u> Thank you for the comment.</p>
<u>Comment 1-1</u>		

Letter #2

Comment Form

Comment 2-1

My comments is on panel F&G lease is on the construction of conveyer belt system for transport of ore to the mill. My first consideration is for wildlife in the area. They need to put in areas where they cross, mostly in low lying areas on the property and also I would say they will be trying to jump over the conveyer system. I know in any animal is pushed by predators they will try and get away any way possible.

Comment 2-2

Secondly – is about road construction for development of the conveyer system over canyon area. I would try to keep the road on just one side rather than both sides.

Comment 2-3

The other is just for maintenance of the roller system the belt runs on needs to be serviced regularly so how is this possible if it has no cat walk on side of the structure. Are they going to leave the road in place or they going to have another plan for that they are not telling you about. Seems like they are pushing ahead at any cost!

Casper Appenay
P.O. Box 306
Fort Hall, ID 83202

Response 2-1

A fourth crossing has been incorporated into the design at the Sage Creek drainage, which is a known wildlife crossing area. **Section 2.4.1.2** of the EIS has been revised to add a description of this elevated crossing to the three underground crossings previously described.

Response 2-2

The only roads planned for construction in conjunction with the conveyor would be mainly within the off-lease portion near the northern end of Panel F, where disturbance would be minimized to only that necessary for future conveyor maintenance. The remainder of the conveyor system would follow existing haul roads and no new roads would be constructed or needed in these areas.

Response 2-3

The majority of the conveyor system would follow existing haul roads, and thus would be accessible for future maintenance from existing roads. The roads constructed for the conveyor would be left open for the life of the conveyor. Please refer to EIS **Section 2.4.1.2 - Access Roads**, which describes roads to be constructed in conjunction with the proposed conveyor: “These access roads would result in approximately 1.3 acres on lease and 6.8 acres off lease of long-term disturbance as they would remain open for future maintenance activities.”

Letter #3

UNITED STATES ENVIRONMENTAL PROTECTION

AGENCY

REGION 10

1200 Sixth Avenue, Suite 900

Seattle, WA 98101-3140

OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

July 11, 2014

Diane Wheeler
U.S. Forest Service
Soda Springs Ranger District
410 East Hooper Avenue
Soda Springs, Idaho 83276

Re: U.S. Environmental Protection Agency Comments on the Draft
Environmental Impact Statement for the Smoky Canyon, Panels F
& G Lease and Mine Plan Modification

(EPA Project Number: 03-063-BLM).

Dear Ms. Wheeler:

Our review of the DEIS was conducted in accordance with our
responsibilities under the National Environmental Policy Act
(NEPA) and Section 309 of the Clean Air Act. Section 309
specifically directs the EPA to review and comment in writing on
the environmental impacts associated with all major federal actions.

The DEIS analyzes impacts of proposed modifications at Panels F
& G at the Smoky Canyon Mine located in Southeast Idaho.
Proposed activities vary by alternative and generally include
construction of an ore conveyor system from Panel F to the mill,
modification of the lease to accommodate expanded overburden
disposal, use of a geo-synthetic clay laminate liner and/or mixed
store and release cover, and implementation of stormwater control
measures associated with the GCLL. The preferred alternative is
identified as Alternative 1- constructed conveyor system, use of
GCLL on 143 acres and geologic store and release cover on 250
acres, and additional stormwater control measures.

The expansion of Panels F & G were previously analyzed in the EIS 2007. However at that time, it was determined that the USFS and BLM did not have the authority to approve the full expansion. In 2009 BLM regulations were revised to allow lease modifications for disposal of overburden materials. The DEIS is tiered to the 2007 final EIS and, therefore, the majority of the analysis in the document is referenced to that NEPA analysis.

The preferred alternative contains improvements compared to the 2007 FEIS proposal. Although the overall seleniferous footprint will increase, the addition of a GCLL liner reduces infiltration and potential mobility of contaminants of potential concern. In addition, the conveyor system, which replaces haul vehicles from Panel F will reduce fugitive dust and emissions (DEIS Table 4.3-2).

The EPA supports the mine modification; however, we have concerns regarding groundwater and surface water impacts from the proposed expansion at Panel G. Specifically, we are concerned with impacts to Crow Creek, which is impaired from past mining practices at the confluence at South Fork Sage Creek and downstream. In addition the DEIS does not include pertinent, detailed information about financial assurance costs for reclamation and closure. We are rating the preferred alternative EC- 2 (Environmental Concerns- Insufficient Information). An explanation of the EPA rating system is enclosed. We are also enclosing additional detail regarding our concerns that we believe should be addressed in the final EIS.

We thank you for the opportunity to review the DEIS. If you need more information or would like to discuss these comments, please contact me at 206-553-1601 or via electronic mail at reichgott.christine@epa.gov, or Lynne Hood of my staff at, (208) 378-5757 or by electronic mail at hood.lynn@epa.gov.

Sincerely,

Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosures:

1. EPA Detailed Comments
2. Figure 7.4-8. J.R. Simplot. 2014. DRAFT Remedial Investigation Report.
3. EPA Rating System for Draft Environmental Impact Statements

EPA Detailed Comments on the Smoky Canyon, Panels F & G Lease and Mine Plan Modification Draft Environmental Impact Statement

Groundwater and Surface Water Impacts

The EPA's main concern is the mobilization of selenium and other contaminants of potential concern from mine facilities to groundwater and surface water. We acknowledge that the conveyance system at Panel F would have little to no effect on this pathway; however, the Panel G expansion of the overburden disposal areas has the potential to impact water resources. Past mining practices at the mine site have resulted in elevated concentrations of selenium in groundwater and surface water and are currently being investigated through the Comprehensive Environmental Response, Compensation, and Liability Act. To address this ongoing concern, we believe that information from the May 2014 remedial investigation report regarding groundwater and surface water conditions/modeling should be considered in this analysis. Such information would help to more accurately develop predictions regarding the cumulative effects to Crow Creek. The final EIS should disclose the effects to water resources without assuming pre-decisional CERCLA clean-up actions.

The DEIS acknowledges activities under CERCLA and Remedial Investigation at Smoky Canyon Mine panels A-E in response to selenium contamination entering Hoopes Springs and South Fork Sage Creek a tributary directly influencing Crow Creek. Crow Creek also exhibits elevated levels of selenium at the confluence of SFSC and continuing downstream to the Wyoming State border. However, the DEIS does not include the most recent predictions on elevated concentrations of selenium in surface water in the project area¹ (i.e., Crow Creek) that were developed during the CERCLA investigation. Impacts to water resources from releases of selenium and other COPCs are the most significant issues at the mine site

and therefore, we encourage BLM to incorporate the most current data in the analysis.

Groundwater beneath Panel G reports to Crow Creek via springs and seeps. Downstream of this area, Crow Creek is joined by SFSC which has been impacted by contaminated groundwater from the mined area from the Pole Canyon cross valley fill south. Modeling from the remedial investigation indicates that the concentration of selenium in groundwater and surface water will continue to increase for several more years. The DEIS does not incorporate this recent modeling but references only the groundwater/surface water analysis from the 2007 FEIS. The modeling included in the 2014 CERCLA revised draft RI predicts that a peak concentration of selenium which is 2-5 times greater than the current aquatic water quality standard of 0.005 mg/l and will not be reached at the Crow Creek/SFSC confluence for several years² (Figure 7.4-8 draft RI attached). Furthermore, following the peak concentration (low flow or high flow) the model indicates the possibility that the concentration of Se in surface water may remain above the selenium A WQS. Thus any additional contamination from Panel G could result in additional loading to portions of Crow Creek below the confluence with SFSC with the potential of a continuing exceedance of the aquatic criterion for selenium. This potential should be considered in the cumulative effects to Crow Creek. The final EIS should discuss the degree to which water impacted by mining Panel G could increase the Se concentration in Crow Creek below the confluence with SFSC.

The DEIS notes that the proposed GCLL cover would result in reduced infiltration and therefore, less groundwater impacts as compared to the 2007 final EIS approval. We are pleased with the proposed reclamation design to a more protective approach. In our letter (December 20, 2007) we raised significant issues with the groundwater analysis. Our concerns were associated with conclusions that Idaho water quality standards would be met based on clean-up activities under CERCLA. With the exception of the 2008 removal action at the Pole Canyon cross valley fill, clean-up remedies remain speculative. We appreciate USFS/BLM staffs time talking with us about this issue throughout the DEIS development. From our conversations, we understand that groundwater to surface water transport would not occur for decades³; although, the DEIS

does not clearly discuss this groundwater/surface water interaction. We recommend that the final EIS include current groundwater curves illustrating the time sequence and potential influence to surface water (i.e., Crow Creek).

As stated previously, the DEIS tiers to the previous 2007 FEIS and references a groundwater report. The referenced groundwater report forms the basis of conclusions in the DEIS regarding the existence of a hydrologic divide between Panel G and the contaminated groundwater/surface water in the northern portion of the site. Although tiering may be appropriate for this analysis, we believe that the issues related to groundwater warrant the inclusion of pertinent and more recent groundwater/surface information. Notably from Table 1.7-1 of the DEIS, it is evident with the number of scoping comments received on water resources and selenium that this is a key issue. We encourage the BLM to further disclose groundwater/surface water information in the NEPA document. This includes summary from the groundwater technical report (or included as an appendix) and figures.

Comment 3-1

Recommendations:

- *Include current information (i.e., hydrologic modeling from CERCLA effort) in the analysis.*

Response 3-1

Current information, obtained from the Revised Draft Smoky Canyon Mine Remedial Investigation/Feasibility Study (RI/FS) Remedial Investigation Report (RI/FS Report), has been added to **Section 3.4**. The predicted impacts to water resources, discussed in **Sections 4.4, 5.3, and 5.4**, have also been modified to include conclusions/predictions described in the RI/FS Report in regard to selenium concentrations in Crow Creek. The added information focuses on current selenium characteristics in Hoopes Spring, South Fork Sage Creek Spring, and Crow Creek downstream of South Fork Sage Creek, as well as the extent and timing of predicted future selenium concentrations in Crow Creek.

Although the RI/FS included sampling and analysis of a number of contaminants of potential concern (COPCs), the primary focus was on using selenium as an indicator of COPCs, for specific reasons. First, previous investigations at the Smoky Canyon Mine led investigators to believe that it would be an appropriate indicator of COPCs due to the recognition that the primary

contamination issues have generally been associated with seleniferous overburden materials. Second, as stated in the RI/FS Report, eventual risk management decisions at the mine are likely to involve selenium because, "...it appears to have the greatest potential for unacceptable exposures for ecological receptors at the Site." The Report verifies the appropriateness of using selenium as an indicator by evaluating the spatial variation and concentration (relative to benchmarks) of other COPCs compared to selenium.

Comment 3-2

• *Include additional detail regarding groundwater/surface water quality, particularly cumulative effects in Crow Creek at the confluence of South Fork Sage Creek and downstream.*

Response 3-2

Sections 4.4, 5.3, and 5.4 have been modified to include discussions on the combined cumulative effects of the Panel G modifications and the predicted effects from previously approved mining on South Fork Sage Creek using the RI/FS Report predictions as a basis for the discussion.

Comment 3-3

• *Include summary of referenced groundwater report and pertinent figures such as: generalized stratigraphic column, groundwater curves, and groundwater flow.*

Response 3-3

Sections 3.2 and 3.4 of the EIS have been revised and a brief summary of the relevant sections of the RI/FS Report have been added. A stratigraphic section of the geology has been added as **Figure 3.2-3** in **Section 3.2**, and figures showing the direction of groundwater flow have been added as **Figures 3.4-4, 3.4-5, and 3.4-6** in **Section 3.4**.

Financial Assurance

The DEIS includes a section on reclamation and financial assurance (Section 2.4.8). The discussion provides general information regarding the process, commitment to approve the financial amount prior to ground disturbing activities, and the periodic review of the adequacy of the bond. However, there is no detail regarding estimated costs or information regarding potential long-term monitoring.

One of the EPA's primary concerns with mining is securing adequate financial assurance for reclamation, closure and post closure activities. NEP A provides for the disclosure of all information concerning environmental consequences of a proposed action to the public and decision-makers before the decisions are made and before actions are taken. One key aspect that should be

discussed is the likelihood that mitigation will be implemented⁴. Although NEPA regulations do not directly refer to disclosure of financial assurances, the amount and viability of financial assurance are key factors in a discussion of whether mitigation will be implemented. Another key component to determining the environmental impacts of a mine is the effectiveness of closure and reclamation activities, including long-term water management. The amount and viability of financial assurance are critical factors in determining the effectiveness of reclamation and closure activities and, therefore, the significance of the environmental impacts.

We recommend that the final EIS analysis disclose the estimated cost to reclaim and close the site in a manner that achieves reclamation goals and post-mining land use objectives. The proposed financial assurance mechanisms should be identified. The analysis should disclose costs associated with implementing the reclamation plan, as well as costs associated with implementing contingency measures to deal with reasonably foreseeable but not specifically predicted outcomes. This is necessary to inform the public and decision-makers of the financial risk to the public posed by conditions at the site. These financial assurances should be in a form that protects the public interest in the event that a company is unable to implement contingency measures or perform long-term operation and maintenance at a closed mine site. The EPA believes that it is critical to anticipate environmental impacts that are reasonably foreseeable, yet not specifically predicted and to have financial assurance mechanisms in place to deal with such contingencies.

The DEIS states that the GCLL cover would require monitoring in perpetuity (Section 2.4.4.4). We acknowledge that applying GCLLs on proxy mine sites is relatively new and the surrogate for evaluating their performance is based on landfill disposal sites. We believe that maintenance during some timeframe will be necessary, which does not appear to be captured in the financial assurance discussion. We strongly encourage BLM to consider costs associated with long-term monitoring and potential maintenance in the bond estimate.

Comment 3-4

Recommendations- the final EIS should:

- *Include detailed information regarding the cost estimate and bonding instrument.*

Response 3-4

The BLM (on lease) and the USFS (off lease) would require actual cost bonds to be calculated and posted prior to Project initiation. Bonds would be increased or otherwise reassessed to cover actual reclamation costs associated with the approved Project modifications. These reclamation bonds would be calculated by Simplot, and reviewed by BLM, USFS, and IDL after the RODs are signed. **Section 2.4.8** of the EIS discusses reclamation of disturbed areas in relation to financial assurances. All requirements of the M&RP must be fully completed and satisfactorily demonstrated prior to bond release. Financial assurance is an important part of BLM's inspection and enforcement program; it is undertaken according to existing policy that is generally described in **Section 2.4.8**. Bonding is not an environmental impact or mitigation to be addressed under NEPA and is outside the scope of this EIS. Financial assurance including bonding is however an important part of BLM's administration of any post NEPA activities that may be approved by the Agencies' RODs. Bonding would be used to ensure Simplot's compliance with any M&RP and SUA approval and conditions, the federal lease terms, royalty and reclamation requirements, and other established requirements.

On September 10, 2013, the BLM State Director issued a memorandum regarding bond requirements for phosphate mining operations. The text contained in the EIS conforms to this memorandum. Although BLM does not consider bond calculations part of the NEPA process, interested public and agencies are welcome to inspect and comment on the BLM's mining bonds and the evaluation/calculation process. Questions regarding the process, BLM's bond policy, and other mine plan implementation work such as environmental monitoring can be directed to the Pocatello Field Office.

Comment 3-5

- *Discuss whether the long-term monitoring and maintenance contingency would be included in the bond.*

Response 3-5

Long-term monitoring and maintenance contingency is a standard part of bond calculation. The BLM conducts periodic review of performance bond amounts; in addition, bonds are managed adaptively and can be increased if or as unforeseen issues arise.

Monitoring and Adaptive Management

The DEIS discusses aspects of the water management plan including water management ponds. The water management is primarily focused on sediment reduction. We are concerned with stormwater runoff interacting with seleniferous material during operations and prior to the applying the cover. The DEIS notes that water will be monitored for COPCs; however, there is no discussion of water management in the event that selenium and/or other COPCs are present. The final EIS should include a discussion of contingencies and adaptive management related to water resources.

The DEIS includes water monitoring locations (Figure 3.4-1). Monitoring station SW-CC-500 is located on Crow Creek; however, this station is upstream of the confluence of SFSC which is the main source of selenium contamination detected in Crow Creek. The final EIS should include monitoring with respect to cumulative selenium loading to Crow Creek at the confluence of SFSC and downstream. Monitoring of Crow Creek at the confluence with SFSC and continuing downstream should be a requirement in this document to insure that Panel G does not contribute to inorganic loading in the lower reaches of Crow Creek. It is recommended that coordination with the CERCLA monitoring efforts be explored to share data from these monitoring locations. Such monitoring could assist in adaptive management at Panels F & G.

A section on adaptive management was not included in the DEIS. We believe adaptive management is an integral component of managing mine sites to ensure resource protection. Key components of this plan would be a clear statement of expectations, linkage among monitoring information, action or trigger levels, resultant changes in operations, and the timing of follow up actions. The adaptive management plan would include specific and unambiguous descriptions of each trigger or action level. For each action level or trigger, include a description of necessary follow-up actions and a discussion of potential corrective actions that may ultimately be necessary to avoid or correct adverse impacts to the environment, along with an estimate of the time needed to implement such measures. This type of plan would ensure that

water quality and post-mining land use objectives can be achieved and sustained in the future, and avoid the types of problems that have occurred at other large mine sites. A discussion of these key components should be included in the final EIS. We also suggest including a table that demonstrate adaptive management measures.

Comment 3-6

Recommendations- the final EIS should:

- *Discuss how water would be managed during operation and measures that would be implemented in the event that COPCs are present.*

Comment 3-7

- *Discuss how monitoring of water originating from Panel G would/ will be incorporated into potential loading increase at Crow Creek along additional stream segments that are currently impacted by South Fork Sage Creek.*

Comment 3-8

- *Include a figure illustrating water management flow (water balance) and mine facilities.*

Comment 3-9

- *Include an adaptive management plan discussion with table highlighting the key components.*

Comment 3-10

Other recommendations

- The EIS should discuss whether the Corps of Engineers will be publishing a public notice for the revised permit.

Comment 3-11

- The EIS should discuss the 404 (b)(1) analysis and mitigation to jurisdictional Waters' of the US (0.002 wetlands and 30 feet of waters).

Response 3-6

Water management is discussed in **Section 2.5.5**. A new appendix, **Appendix 2B - Adaptive Management Plan**, includes measures that would be implemented in the event that COPCs are present, and is referenced in **Section 2.5.5** of the EIS.

Response 3-7

Monitoring of Crow Creek at the confluence with South Fork Sage Creek is currently being conducted. **Figures 3.4-1** and **3.4-2** have been revised to show these monitoring locations. In addition, text changes have been made in **Section 3.4.1.1** to include monitoring results from these locations.

Response 3-8

A description of how the GCLL would be constructed on the East ODA, the timing of the GCLL construction, and how stormwater would be managed on and around this ODA and was added to **Section 2.4.4.2**.

Response 3-9

A new appendix, **Appendix 2B - Adaptive Management Plan**, has been added, and is referenced in **Section 2.5.5** of the EIS.

Response 3-10

Simplot has revised their Proposed Action, eliminating disturbances to waters of the U.S, including wetlands. Therefore, a revised Corps permit would not be required. The EIS has been revised in **Chapters 2, 3, 4, and 5** to reflect the changes in the Proposed Action and all Action Alternatives as related to the avoidance of all impacts to wetlands.

Response 3-11

See Response 3-10.

Comment 3-12

- The EIS should discuss the mine life of the project in the context of the resource at Smoky Canyon Mine.

¹ J.R. Simplot Company. May 2014. Draft CERCLA Remedial Investigation Report.

² Table 7.4.8 of the draft RI. Crow Creek Segment. The assumptions include Pole Canyon non-time critical removal action.

³ Figure 30 groundwater curves provided by lead agency during interagency meeting.

⁴ CEQ. 2011. "Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact."

[http://ceq.hss.doe.gov/current developments/docs/Mitigation and Monitoring Guidance 14Jan2011.pdf](http://ceq.hss.doe.gov/current%20developments/docs/Mitigation%20and%20Monitoring%20Guidance%2014Jan2011.pdf)

Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO-Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring

Response 3-12

Section 2.4 of the 2007 FEIS on page 2-18 states, "Mining in Panel G would take between 6 and 8 years at full ore production rate." **Section 2.6.3**, No Action Alternative, states, "There would be no reduction in the duration of mining Panel G; however, Simplot estimates approximately 50 percent of the phosphate ore in Lease IDI-01441, previously considered economically recoverable, would not be mined because there is not sufficient storage area for the associated overburden/waste rock disposal external to the Panel G pit without expansion of the East ODA." **Section 4.17.2.5**, No Action Alternative, states, "...when the economically viable phosphate resource is ultimately exhausted, the total lifespan of mine operations at the Smoky Canyon Mine and production of phosphate at the Don Plant would be reduced due to the amount of ore not mined from Panel G, potentially resulting in adverse long-term indirect impacts."

substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC- Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO-Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU- Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.

(Attachment: Figure 7.4-8, Predicted Concentrations at Locations Downstream of Springs Complex Based on Modeled Loading, Smoky Canyon Mine, Remedial Investigation Report)

Letter #4

BOARD OF LINCOLN COUNTY COMMISSIONERS

T. Deb Wolfley **Kent Connelly** **Paul C. Jenkins**
Chairman Kemmerer, Thayne, Wyoming
Fairview, Wyoming Wyoming

925 Sage Avenue, Suite 302, Kemmerer, WY 83101

Phone: 307-877-2004

Email: commission@lcwy.org

July 14, 2014

Submitted Electronically at: blm_id_scm_panelsfg@blm.gov
Panels F and G Lease and Mine Plan Modification Project EIS
c/o JBR Environmental
8160 South Highland Drive
Sandy, UT 84093

Re: Board of Lincoln County Commissioners Comments on Panels
F and G Lease and Mine Plan Modification Project at Smoky
Canyon Mine – Environmental Impact Statement

Dear Sir or Madam,

Comment 4-1

Thank you for the opportunity to comment on the panels F and G
Lease and Mine Plan Modification Project -EIS proposed by J.R.
Simplot Company. Lincoln County supports the efforts of the J.R.
Simplot Company to mitigate site-specific environmental
consequences related to the proposed mining activities. We believe
it is technically feasible to permit appropriate access to mineral
resources while protecting other resources from irreparable harm.

The J.R. Simplot Company operates the Smoky Canyon Mine
which physically resides in Caribou County Idaho. However, the
majority of the employees at the mine reside within Lincoln County
Wyoming. Numerous businesses within Lincoln County also
benefit from the Smoky Canyon operation. Lincoln County has a
vested interest in assuring the mine maintains a profitable position
at this location. We appreciate the Bureau of Land Management
(BLM) and United States Forest Service (USFS) fully considering
these comments in support of Smoky Canyon's proposal.

Smoky Canyon employs approximately 255 people with an annual
payroll in the range of 24 million dollars. This represents a major
employer in the region. In addition, previous economic studies

Response 4-1

Thank you for the comment.

have estimated that Smoky Canyon Mine spends approximately 30 million dollars annually with local suppliers. Smoky Canyon Mine's January 2013 proposal assures that Simplot will fully develop the phosphate ore resource at the mine in an environmentally responsible manner while assuring the company's financial solvency. Lincoln County supports this proposal and respectfully asks the agencies to approve Simplot's proposal in an expeditious manner.

As currently approved, Simplot is unable to mine all the available phosphate ore present at Panel G. Simplot's proposed mine and lease modification, which includes an additional 113 acres of permanent overburden disposal area, will assure all the economically recoverable ore will be mined. In addition, the geo-synthetic clay laminate liner (GCLL) proposed over the entire area where seleniferous overburden is present in this panel is a significant investment by Simplot to assure long-term environmental protection—even greater than what is currently approved.

Lincoln County requests the BLM approval for all three components of Simplot's proposal at Panel G: 1) approval of the modification of lease IDI-01441 by 280 acres to accommodate the overburden; 2) increase the current disturbance boundary for the temporary storage of chert to allow for the currently proposed mine sequence; and 3) utilization of the GCLL as opposed to the currently approved dinwoody cover.

Simplot has also proposed the construction of a conveyor system to more efficiently deliver ore mined in Panels F and G to be transported back to the existing mill. This conveyor includes a crusher and ore stockpile in Panel F. Lincoln County supports the efficiencies provided by the proposed conveying system and requests the BLM and the USFS approve this system as proposed.

Lincoln County sincerely appreciates the opportunity to participate in this process as the agencies consider these important issues that are proposed by Simplot. Long-term success at Smoky Canyon Mine is in the best interest of Lincoln County as well, so approval of this proposal is strongly encouraged.

Thank you for the consideration of the Board's comments.

Sincerely,

/s/ T. Deb Wolfley, Chairman

T. Deb Wolfley, Chairman
Board of Lincoln County Commissioners

Letter #5

Email

Comment 5-1

I am an Idaho citizen, and I want to voice my support for the mine's expansion. I have just stumbled across the notice on your website, and also just realized that this is the last day the subject is open for public comment.

Mining is what drives economies and generates prosperity. Without mining, it is doubtful that Idaho and most of the other western states would ever have become states.

Sure, a few acres will be disturbed. But what, are you going to let it grow timber and either wait to log it off, or else not log it at all and "conserve" it for future generations who will never be allowed to harvest the resources? We need the jobs, we need the prosperity, and the impact on the environment is negligible. In due time, when the mine has ran out, it will be reclaimed and even if it isn't reclaimed by some miraculous reason, nature will always reclaim what has been disturbed. I was (wrongly) taught in school when I was growing up that things like clearcuts never grew back. I have seen tracts of land that were clearcut 40 years ago and they came back thicker than they ever were and the timber is already merchantable again. I know people see a big mine and think wow, what an eye sore. But really, it's not. I look at places like the Berkley Pit in Butte, and think wow, look at what our American exceptionalism has done. But consider also the legacy: Every coin in your pocket has at least some copper in it that came from the Berkley Pit. The wiring in your house has copper from the Berkley Pit, unless of course it was built before they started mining, but it still probably has copper that came from Butte even if a different mine. Think of the billions of lives those mined resources have touched and shaped.

Response 5-1

Thank you for the comment.

Now, go one step further and imagine every step those phosphates being mined make in their entire life cycle. How many jobs will it impact. How many people will put food on their table because that mine helped give them their job. I know phosphates are important as fertilizers, so think of the farmers who will have a better yield thanks to that mines product. This in turn means lower food prices. Everyone benefits from this mine being expanded and kept in operation.

If the mine were to shut down, all it would do is require the phosphates to be mined somewhere else, perhaps even in other countries where there are no environmental regulations at all to worry about. The only benefit would be a handful of acres and a few trees that weren't disturbed. The consequences would be countless jobs lost, and countless others impacted along the way. And Idaho's economy would suffer greatly while bolstering whoever moved in to fill the vacuum created in the marketplace with the loss of this mine.

Further, I really would like anyone who still opposes any mining operation, to pick up a copy of De Re Metallica by Georgius Agricola, read his first chapter. Even back in the 1600's there was fierce debate regarding mining and minerals, most arguments against mining are indeed not based in reality or fact, but are reactionary in nature. All of it in modern times is largely due to someone hating the fact others are making money doing something useful, and yet others have a "not in my back yard" mentality.

If we fail to support our mining industry, we are starting down a short and dark path towards despotism and poverty. All that we have begins with a hole in the ground. We can no longer be a nation of consumers and not of producers if we are to have any standard of living left by the time the decade is out. I would like to point out also, if you add up all the acreage that is taken up by say, airports in this country... It far outweighs the acreage that has been taken up by mining operations. Yet airports are welcomed with open arms, yet without mines, there could be no to have airports shut down because of environmental concerns.

There's just so many places to start on this issue, I know I've jumped around quite a bit, but I had to say something, and I figure

the best way was to start typing and not look back. I don't see how anyone in good conscience would want to stop a mine's expansion.

Sincerely,
Adam G. Koch

Goldbaron357@gmail.com

Letter #6

J.R. SIMPLOT COMPANY

ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300

P.O. BOX 27

BOISE, IDAHO 83707

(208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

July 15, 2014

SENT VIA EMAIL TO: blm id scm panelsfg@blm.gov

ORIGINAL TO FOLLOW VIA CERTIFIED MAIL #7011 0470
0002 4792 9652

RETURN RECEIPT REQUESTED

Panels F and G Lease and Mine Plan Modifications Project EIS

JBR Environmental

8160 South Highlands Drive

Sandy, UT 94093

Dear Sir or Madam:

The J.R. Simplot Company (Simplot) proposed in January 2013 several actions associated with the Panel G Phosphate Lease that allow for full recovery of phosphate ore and enhance environmental protection. The Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) has released the Draft Environmental Impact Statement (DEIS) for this Proposed Action. Simplot has the following comments on the DEIS.

Introduction

The following comments provide information for the agencies' consideration in preparing the final EIS and issuing a Record of Decision (ROD) for approval of the final action. The DEIS

represents a thorough analysis of the Proposed Action as well as the No Action and action alternatives. A review of the DEIS document makes it apparent that the agencies conducted a close examination of the environmental impacts, and made a fully informed and well considered decision in selecting the Preferred Alternative.

The Proposed Action consists of five distinct components (see DEIS page 2-4):

- Modification of the existing mining and reclamation plan (M&RP) to allow construction and operation of an ore conveyor system between Panel F and the mill,
- Modification of Lease IDI-01441 by 280 acres to accommodate the 160-acre expansion of the previously approved East overburden disposal area (ODA) for (Panel G),
- Increase of the on-lease disturbance area of the previously approved South ODA (Panel G) by 19.4 acres for the temporary storage of chert to be used for eventual reclamation of the Panel G pit,
- Utilization of a geo-synthetic clay laminate liner (GCLL) instead of the currently approved geologic store and release cover over the in-pit backfill and the East ODA (Panel G), and
- Implementation of on- and off-lease stormwater control measures associated with the GCLL.

The Purpose and Need section (DEIS Section 1.2) accurately describes the Agencies' responsibilities in response to Simplot's Proposed Action.

As discussed in detail below, Simplot recognizes the valuable observations and recommendations made by the Agencies in the NEPA process, and would support the selection of the Proposed Action as well as any of the action alternatives. Simplot agrees all action alternatives are feasible and assure full recovery of the resource in accordance with BLM requirements.

Appropriate and Thorough Analysis

The DEIS recognizes that "the direct and indirect impacts specifically from the Project are expected to have negligible to

minor overall impacts ... " (DEIS Page 5-1). This characterization is accurate because the vast bulk of the actions and consequences were previously described in the 2007 FEIS, to which this DEIS was properly tiered.

Mining and milling at Smoky Canyon has been occurring for over 30 years. As the DEIS Notice of Availability recounted:

"The existing Smoky Canyon mining and milling operations were authorized in 1982 by a mine plan approval issued by the BLM and special use authorizations issued by the USFS for off-lease activities, supported by the Smoky Canyon Mine Final EIS and Record of Decision (ROD). Mining operations began in Panel A in 1984 and have continued ever since with the mining of Panels A-E." [79 Fed. Reg. 31131, 31132]

The DEIS recognizes this long history at Smoky Canyon and properly tiers to the 2007 FEIS, which allows the DEIS to incorporate applicable information from the 2007 FEIS throughout the DEIS. The DEIS repeats many times (see, e.g., DEIS pages 2-2, 3-1, 4-3, and 5-1) how it tiers to the 2007 FEIS. For example, Section 3.1.1 states:

"As stated in Chapter 1, this EIS tiers to the 2007 FEIS (BLM and USFS 2007) and uses as much information as possible from that document as applicable to the proposed Project. A CD version of the 2007 FEIS has been included as part of this EIS for ease of reference. Much of Chapter 3 of the 2007 FEIS provides general information about existing conditions in the Project Area. That information is generally not repeated in the sections following. Rather, where specific sections of Chapter 3 are tiered to the 2007 FEIS, the text is incorporated by reference or briefly summarized for some resources, followed by any specific Project-related information. Any new data collected for this EIS, which was not contained in the 2007 FEIS, is clearly identified." [DEIS, page 3-1]

The Smoky Canyon NEPA process appropriately uses tiering because the operations occur in the same area, entail essentially identical components, create the same potential environmental consequences, and are subject to review by the same federal and state agencies.

The 2007 FEIS and the underlying process were repeatedly reviewed and upheld by the Idaho District Court and the Ninth Circuit Court of Appeals. Beginning with the Idaho District Court decision in 2008 rejecting the motion for preliminary injunction and other relief sought by Greater Yellowstone Coalition, Natural Resources Defense Council, Sierra Club, and Defenders of Wildlife, see *Greater Yellowstone Coalition v. Timchak*, 2008 WL 5101754 (Nov. 26, 2008), and continuing through six additional judicial reviews, culminating in *Greater Yellowstone Coalition v. Lewis*, 628 F.3d 1143 (Jan. 25, 2011), the Idaho District Court and the Ninth Circuit Court of Appeals considered numerous objections and arguments about the 2007 FEIS process. The Courts rejected those objections and arguments and upheld the FEIS and the underlying process.

The 2007 FEIS process is over and complete, and judicially upheld. The Proposed Action and the action alternatives cannot reopen that process. However, the 2007 FEIS provides a verified basis for tiering by the DEIS, particularly when the "the direct and indirect impacts specifically from the Project are expected to have negligible to minor overall impacts ... " (see DEIS, Page 5-1).

Perhaps the best way to understand the Project's "negligible to minor overall impacts" is to focus on the No Action Alternative, which is defined in Section 2.6.3 as follows:

"Under the No Action Alternative, the decisions from the 2008 RODs would continue to govern development of the phosphate resources of Panels F and G, and the currently approved M&RP would be executed. The M&RP would remain unchanged and Lease IDI-01441 would not be modified. There would be no reduction in the duration of mining Panel G; however, Simplot estimates approximately 50 percent of the phosphate ore in Lease IDI-01441, previously considered economically recoverable, would not be mined because there is not sufficient storage area for the associated overburden/waste rock disposal external to the Panel G pit without expansion of the East ODA. Overall disturbance would remain essentially the same as that approved in the 2008 RODs. Ore mined from Panels F and G would continue to be delivered to the mill via haul trucks. The previously approved geologic store

and release cover would be used for reclamation as described in the 2007 FEIS and approved by the 2008 RODs." [DEIS Page 2-28.]

The No Action alternative underscores the ongoing and extensive previously-approved operations. The Proposed Action and the action alternatives do not meaningfully increase the environmental impacts of previously approved operations. In fact, the Proposed Action provides a number of environmental benefits. Simplot is authorized to undertake actions reviewed and approved based on the 2007 FEIS without regard to decisions made or not made in the DEIS and related agency actions regarding the Proposed Action.

As a result of the thorough analysis conducted by the Agencies, Simplot agrees that implementation of the Proposed Action or any action alternative will assure full recovery of the resource as mandated by BLM requirements.

Comment 6-1

Inventoried Road less Areas

Road less areas in national forests in Idaho are managed by the "Idaho Road less Rule", found in 36 CFR Part 294. The DEIS (page 3-67) needs to recognize that both the Federal District Court for Idaho and the Ninth Circuit of Appeals have upheld the Idaho Roadless Rule (see Attachment A). The Idaho Roadless Rule provides for the construction of roads in inventoried roadless areas for the purposes of phosphate mining as long as such roadless areas are classified as *General Forest, Rangeland, and Grassland*.

(e) General Forest, Rangeland, and Grassland. (1) except such road construction or reconstruction may be authorized by the responsible official in association with phosphate deposits as described in Figure 3-20 in section 3-15 Minerals and Energy in the Roadless Area Conservation; National Forest System Lands in Idaho Final Environmental Impact Statement. [§294.25.(e)(1)].

The roadless areas that are present in the Proposed Action are classified as *General Forest, Rangeland, and Grassland*. As the DEIS states on pages 4-58 through 4-62, the road building in the Proposed Action and both alternatives is in compliance with 36 CFR 294.

Response 6-1

Section 3.12.3 of the EIS was revised to add, "Both the Federal District Court for Idaho and the Ninth Circuit Court of Appeals (2013) have upheld the Idaho Roadless Rule." A reference to the 9th Circuit opinion was added to Chapter 8.

Comment 6-2

Avoiding Potential Impacts to Wetlands

A cornerstone to compliance with Section 404 of the Clean Water Act includes an evaluation to determine if potential impacts to wetlands may be avoided. Simplot has reviewed the area determined to be potentially impacted according to Section 4.7.2. As a result, it is clear any disturbance to this delineated wetland may be avoided by accessing the proposed stormwater control features from the mine as opposed to Wells Canyon road and terminating this access prior to any disturbance in this area. This makes sense from an operational perspective as well as from a security perspective, by lessening any potential public access via this access from Wells Canyon road. Consequently impact to this wetland area will be avoided.

Alternatives and Record of Decision Considerations

The Proposed Action includes a geo-synthetic liner (GCLL) over the in-pit backfill and the east overburden disposal area. The purpose of the liner is to enhance environmental protection so as to further reduce or eliminate water quality impacts. The DEIS (pages 4-16 through 4-18) acknowledges this, stating:

"it is clear that this represents a significant improved effect over the 2007 FEIS in regard to groundwater quality beneath and down gradient of Panel G " [page 4-18]

Comment 6-3

Simplot encourages the agencies to provide flexibility within the decision if a mixed cover alternative is selected. For example, if Alternative 2 is selected, the decision should set a minimum of synthetic cover to be used, but allow a maximum of a 100% synthetic cover as provided for in the Proposed Action in order that the abovementioned environmental enhancements be realized.

The chosen alternative could also allow for a different synthetic cover, if its demonstrated performance would be the equivalent of, or better than, the GCLL. If better technology is available in the future, this would allow for evaluation of other synthetic covers then, while at the same time assuring the analysis provided in the EIS is supported.

Response 6-2

The EIS has been revised document-wide throughout applicable chapters and sections to show the access to the proposed stormwater control features (i.e. the series of stormwater ponds to the south of Panel G) under the Proposed Action and all Action Alternatives would be down from the mine rather than up from the Wells Canyon Road, which eliminates the potential for any wetland impacts.

Response 6-3

Should an alternative cover, other than what was analyzed in the EIS, be proposed in the future, the Agencies would evaluate that proposal in comparison to the analysis contained in this EIS.

Comment 6-4

Further, Simplot wants to offer a clarification to Section 2.4.6: even if the Panel G lease modification and the ore conveyor system from Panel F to the mill is approved, the possibility exists that the conveyor may not be built due to economic considerations. In fact, the more time that elapses, the less likely the economic feasibility of the ore conveyor becomes. This is because mining is currently occurring in Panel F, resulting in less ore available to be transported via this proposed conveyor. The current proposal for the conveyor includes delivery of power to Panel F along the conveyor. If the conveyor is approved, but Simplot determines the conveyor to be economically infeasible, consideration of construction of a 25 kV power line in place of the conveyor consistent with the disturbance analyzed in this EIS is requested. For purposes of this power line, the poles will range in height from 35 to 60 feet with an average span of approximately 250 feet. Disturbance off-lease in areas not currently approved for disturbance would correlate with the area analyzed for the proposed conveyor route.

Conclusion

Simplot appreciates the agencies consideration of these comments. Simplot agrees that all action alternatives are feasible and assure full recovery of the resource in accordance with BLM requirements. The use of a geo-synthetic liner, as provided for in the Proposed Action and Alternatives 1 and 2 will provide enhanced environmental protection. The No Action alternative, which will not allow for full economic recovery of the resource, should be rejected in light of the negligible to minor overall impacts accurately described in the DEIS.

Response 6-4

The EIS contains a change to the description of the Proposed Action in **Section 2.4** indicating that should the conveyor be determined by Simplot to not be economically feasible, the power line that is proposed as a part of the conveyor would instead be constructed on wooden poles following the proposed conveyor route alignment.

Section 2.4.6 of the EIS has been revised as follows:

“Implementation of the proposed ore conveyor system between Panel F and the mill would not be contingent upon approval of modification of the lease and M&RP for Panel G; however, should the BLM and USFS approve the conveyor system either with or without approval of the Panel G modifications, Simplot would evaluate the economic viability of implementing the conveyor system at that time. In the event the conveyor is approved by the Agencies but not constructed by Simplot due to economic considerations, Simplot could still opt to install the 25 kV power line, but on poles rather than attached to the conveyor. The power line would be located along the haul road as previously approved by the 2008 RODs, except it would follow the conveyor route between the proposed stockpile area and the point where the conveyor route joins the haul road. The power poles would range in height from 35 to 60 feet and have an average estimated span of 250 feet. This would be less disturbance than would result from the support bents for the conveyor in this area, which would be spaced at 120-foot intervals and range in height from 15 to 73 feet.”

Please contact either Lori Hamann (208-235-5670) or myself (208-389-7365) if you have any questions or you would like to discuss these comments.

Sincerely,

Alan L. Prouty
Vice President, Sustainability and Regulatory Affairs

Attachment

C:
Sheila Bush, J.R. Simplot Co.
Lori Hamann, J.R. Simplot Co.
Scott Lusty, J.R. Simplot Co.

Letter #7

GREATER YELLOWSTONE COALITION

America's Voice for a Greater Yellowstone
Lands Waters Wildlife

July 14, 2014

Panels F and G Lease and Mine Plan Modification Project EIS
Comments - Idaho Falls District
Attn: Joe Kraayenbrink District Manager
Bureau of Land Management
8160 South Highland Drive, Sandy, UT 84093
blm_id_scm_panelsfg@blm.gov

RE: Greater Yellowstone Coalition comments on Draft
Environmental Impact Statement, Smoky Canyon Mine, Panels F &
G, Lease and Mine Plan Modification Project, U.S. Department of
the Interior, Bureau of Land Management, U.S. Department of
Agriculture, Forest Service, April 2014.

Dear Mr. Kraayenbrink,

The Greater Yellowstone Coalition (GYC) appreciates the
opportunity to provide comments on the Smoky Canyon Mine Plan
Modification Draft Environmental Impact Statement. For 30 years,
GYC has worked to protect the lands, waters and wildlife of the
Greater Yellowstone Ecosystem. Bureau of Land Management

(BLM) and U.S. Forest Service (USFS) managed resources are a critical component of this region and GYC has long cooperated with these agencies to preserve and conserve these resources to maintain the integrity and function of the region for present and future generations of people to enjoy.

We value the work that the BLM and USFS staff have done in preparing the Draft Environmental Impact Statement for the Smoky Canyon Mine, Panels F & G, Lease and Mine Plan Modification (DEIS). For assistance with our comments GYC has contracted David M. Chambers, Ph.D., P. Geop. and Stuart M. Levit, M.S., J.D. with the Center for Science in Public Participation to provide technical assistance in the review, analysis and preparation of the following recommendations for surface mining operations and specifically for water quality measures and reclamation practices described in the DEIS.

GYC supports the agencies' need and effort to provide a thorough review and assessment of the proposed project modification and to approve a project plan that best meets and protects the public interest.

To that end GYC would like to emphasize the need for the DEIS to evaluate the project with respect to potential long term impacts from mine operations.

Comment 7-1

The proposed project should meet water quality standards and minimize the possibility of new adverse impacts to surface and ground water. New actions, the use of new technology or practices based on new empirical evidence, should be accompanied by a full presentation of the associated data, and analysis of that data, to support changes to the mine plan from the plan based on the 2007 EIS and 2008 ROD.

Comment 7-2

Summary of Comments

Water quality data and a history of Idaho phosphate mines releasing selenium into the environment underscores the hazards posed by their waste rock (overburden) repositories. The 2014 DEIS does not explain why the regulatory agencies decided that the storage and release reclamation was better than a HDPE-type or clay liner.

Response 7-1

The EIS contains text revisions and additions where appropriate as described in the following Responses 7-2 through 7-41. Explanations are also provided when text revisions or additions were not required.

Response 7-2

As indicated in **Section 2.4.4.1** (last sentence of the second paragraph), the geologic store and release cover is predicted to meet the required water quality standards. Because the GCLL would reduce infiltration more than the geologic store and release cover, it would prevent any additional impacts that were not previously modeled. The Agencies must balance potential impacts to water quality against potential impacts to revegetation

diversity. Using a GCLL over only new disturbance would ensure water quality standards would be met; see **Section 2.6.2.5**, which explains the rationale for the Preferred Alternative.

Comment 7-3

It would also be relevant to know why Simplot decided that the geosynthetic clay liner was preferable in its proposed alternative. It is not sufficient to simply say that one is the product of a previous analysis and another is the product of a new analysis - particularly when many aspects of the 2008 BLM ROD are being adjusted because of Simplot's desire to expand the mine.

Response 7-3

Although GCLLs have been used extensively for similar applications (e.g., solid waste landfills), they are a relatively new technology for phosphate mines in southeast Idaho. Subsequent to the 2008 ROD, GCLLs have been approved for use at the Blackfoot Bridge Mine and for a pilot study at the South Rasmussen Ridge Mine. The geologic store and release cover analyzed in the 2007 FEIS was designed and is anticipated to meet applicable water quality standards. Because the proposed GCLL is anticipated to be even more protective of surface and groundwater than the previously approved cover, no additional water quality impacts would be anticipated from the additional disturbance.

Comment 7-4

It is also unclear from the 2014 DEIS what exactly constitutes the Smoky Canyon's final or latest plan for reclamation. The 2014 DEIS, 2007 FEIS, and 2008 BLM ROD refer to the following documents, none of which appear to exist as separate documents from the EISs/ROD.

- Mine and Reclamation Plan (M&RP)
- Reclamation Plan
- Reclamation Requirements for the Potential Bond Release.

For the public to evaluate the mine's reclamation plan it seems it would make sense to have that document available in some clear form, ideally in an appendix.

Response 7-4

In general, what is initially proposed by a mining company is modified to some extent as a result of the NEPA process. The EIS and associated ROD is often considered by the BLM Pocatello Field Office to be the approved M&RP, which includes the reclamation requirements. However, since release of the 2008 ROD, it was determined that mining companies must submit a revised M&RP document for all new projects to reflect the changes and requirements of the associated EIS and ROD. Simplot is aware of this requirement and will submit a revised M&RP as needed upon issuance of the ROD for this Project. The original application submitted to the BLM for the Project is available upon request.

Comment 7-5

The comments below, therefore, are based on our understanding of reclamation proposals as explained in the 2014 DEIS and the 2007 FEIS.

These elements and relevant background should be described in the EIS so that the public can understand and evaluate/comment on the underlying data, especially the data on water quality from the areas of the mine under the EECA, and agencies' decisional priorities. As written, the decision process is unexplained, and the agencies'

Response 7-5

Additional data, in particular water quality data, has been added to the EIS, as described in the comment responses that follow. NEPA is a decision-making process. **Section 1.3** of the EIS lists the decisions to be made and the Agencies' responsibilities for those decisions. Future steps involved in the NEPA process are described in **Sections 6.1.4** and **6.1.5**.

decisions are being made without sharing all of their data and reasoning with the public.

Specific Comments

2.3.2 CERCLA Studies and Remediation

In discussing the ongoing selenium contamination at the Smoky Canyon mine, and the efforts to remediate this contamination, it is noted:

The Agencies continue to work with Simplot to remediate selenium issues at the Smoky Canyon Mine. The EE/CA for Smoky Canyon Mine (Panels A, B, C, D, and E and their associated mining operations) was written in May 2006. Part 1 of Appendix 2A of the 2007 FEIS addressed the findings of the SI with regard to the Pole Canyon ODA contribution to increased selenium levels in Hoopes Springs and Sage Creek, and proposed removal action efforts. A separate report included in Part 2 of Appendix 2A addressed the reclamation and other actions proposed for the Panel E operations to reduce selenium concentrations at South Fork Sage Creek Springs. The CERCLA removal action specified for the Pole Canyon ODA was initiated in the fall of 2006.

Any potential water quality impacts related to the Smoky Canyon Mine are currently under CERCLA investigation. As of the writing of this EIS, the Smoky Canyon Mine is currently the subject of an Administrative Settlement Agreement and Order on Consent/Consent Order for Remedial Investigation/Feasibility Study entered into by Simplot and the USFS, EPA, and IDEQ. The USFS is the lead agency, and the EPA, USFWS, BLM, IDEQ, and the Shoshone-Bannock Tribes have elected to participate as support agencies. Appropriate future remedial actions will be determined based on the findings of the remedial investigation currently underway.

While remediation actions have been taken and will continue into the future for the Smoky Canyon Mine, they have no bearing on the previously approved mining operations at Panels F and G. Further, the mining of Panels F and G has no connection to existing water quality impacts to Smoky Canyon Mine that is currently under investigation because the South Fork of Sage Creek drainage,

which essentially separates Panels F and G (to the south) and Panels A through E (to the north), is the low point for both areas and groundwater flows converge to this low point from both directions. For these reasons, this EIS will focus solely on the proposed mine and lease modifications for Panels F and G described in Section 2.4. (2014 DEIS, p. 2-4)

The 2014 Draft EIS on the Lease and Mine Plan Modification depend heavily on the 2007 FEIS,¹ with almost 500 references to the 2007 FEIS in the 2014 DEIS. To the best of our understanding, the 2007 FEIS has been adopted by the BLM and USFS as the Mine and Reclamation Plan (M&RP). We also understand why it has been chosen to “*focus solely on the proposed mine and lease modifications for Panels F and G*” because the previous Smoky Canyon mine developments have taken place in the lower part of the watershed, and the contaminants coming from the Pole Canyon ODA and Panel E operations.

Comment 7-6

However, what is of relevance is how well the mitigation modeling and measures for the Pole Canyon ODA have performed since the initiation of the CERCLA removal action in 2006. In particular, have changes in water quality from the Pole Canyon ODA seepage, and water in Hoopes Springs and Sage Creek followed model predictions? This has bearing on the assumptions made for the modeling in the 2014 DEIS, which was done in the same time frame as the 2007 FEIS and CERCLA removal action. There was no new ground or surface water modeling performed for the 2014 DEIS.

Furthermore, it was noted in the BLM Record of Decision subsequent to the 2007 FEIS:²

*... **remediation for the existing contamination is underway and the first actions were implemented in 2007.** Remedial actions intended to address the existing selenium contamination issues are designed to lower selenium concentrations in Hoopes Spring and South Fork Sage Creek Springs well before the peak water quality impacts from Panels F & G arrive at South Fork Sage Creek Springs. (BLM ROD, 2008, p. 16, **emphasis added**) and;*

*It was determined that the **new empirical evidence** provided sufficient information to adopt a selenium attenuation factor in the*

Response 7-6

The information contained in the 2007 FEIS regarding Smoky Canyon Mine contaminant sources and estimated effects was the best available information at the time of that EIS. Since then, additional CERCLA studies have updated this information and continued monitoring has described the actual impacts to Hoopes Spring and Sage Creek, which are greater than previously predicted. All of this was described in the 2014 EIS in **Sections 2.3.2 and 5.4.3**. In addition, the EIS explained that the effects from the proposed changes to Panels F and G would have no impact on Hoopes Spring and Sage Creek. Groundwater modeling conducted for the 2007 FEIS regarding the potential effects of Panels F and G is still considered to be accurate and is unaffected by the subsequent environmental monitoring data and recent CERCLA studies conducted north of South Fork Sage Creek. The impacts to groundwater and surface water from the potential backfill source at Panel G do not need to be remodeled because the source term under the EIS Action Alternatives would actually be smaller than was calculated for the 2007 FEIS (the No Action Alternative in the EIS) and the lesser environmental effects to groundwater and surface water can be estimated arithmetically, as is fully described in the EIS. Additional description of the Smoky Canyon Mine CERCLA studies and

groundwater model. It was also determined that including a selenium attenuation factor would not be in conflict with the project record or DEIS. (BLM ROD, 2008, p. 15, **emphasis added**)

Comment 7-7

Recommendation: The FEIS should contain a section describing the water quality monitoring results from the Pole Canyon ODA seepage, and Hoopes Springs and Sage Creek, in the 7 years since in the CERCLA removal action was initiated.

Comment 7-8

It is suspect to trust the efficacy of the DEIS' plan to visually inspect 300 acres of area for potential physical threats that could damage the GCLL (e.g. cracks, protrusions, rocks). It is perilous to presume that construction activities such as trucks and other equipment operations will not harm the liner. Given the liner's importance to reclamation success, it should be further protected both above and below by a layer of sand in addition to a "subgrade" of unspecified material type and thickness, and above the liner a drainage layer that will contain some coarse rock. The cost is negligible compared to the harm caused by an inadvertent or undetected liner perforation and failure.

Recommendation: A 6-inch layer of sand should be required below and above the liner to prevent liner injury from physical objects or operational injury.

Comment 7-9

The regulatory agencies should also require a specified minimum permeability for those areas that require liners. This places the burden on the mine of meeting a relevant permeability requirement, not just on installing a particular type of liner. The permitted/regulatory permeability requirement is more important in terms of environmental protection and enforceability. For most mining applications it is typical to require a minimum permeability of 1×10^{-6} cm/s for a liner, especially on seleniferous waste.

Recommendation: The regulatory agencies should require that the mine maintain a minimum permeability 1×10^{-6} cm/s on the liner used above all seleniferous wastes.

effects monitoring conducted since 2007 has been added to **Sections 3.4, 4.4, and 5.4** of the EIS to provide more detail.

Response 7-7

Relevant information has been added to **Chapters 3, 4, and 5** under the Water Resources sections.

Response 7-8

Integrity of the GCLL, and therefore damage resistance, is crucial to its performance. The GCLL has been designed and laboratory tested to ensure that it can be installed and operate without puncturing. The potential for puncture of the geomembrane is evaluated based on the cushion provided by the geotextile between the GCLL and the drainage membrane (see **Appendix 2A**).

The subgrade is evaluated for protrusions to meet specification requirements, and thus would not pose a risk for puncture of the geomembrane. The drainage rock undergoes sieve testing to confirm it would not be in excess of the calculated maximum particle size assumed when sizing the cushion overlying the geomembrane. This information is detailed in a technical memorandum included in the Project Record. **Section 2.4.4.2** also indicates that a final design report for the GCLL would be prepared and approved by the Agencies prior to implementation of the Project.

Response 7-9

The currently approved geologic store and release cover for Panels F and G is required to meet a minimum permeability of 1.0×10^{-6} cm/sec (see Section 2.6.1 of the 2007 FEIS). As described in **Section 2.4.4.3** of the EIS, the GCLL is less permeable than the approved geologic store and release cover.

Comment 7-10

The description of the liner appears to contain an inconsistency. Section 2.4.4.2 states that:

The GCLL consists of a layer of bentonite clay inserted between two geotextile layers. A geotextile is a woven sheet material that is resistant to penetration damage. The top geotextile layer would be laminated with a polyethylene geomembrane layer, which would provide an additional layer of protection against desiccation and ion exchange degradation.

Minimum roll width for the geotextile fabric would be 14 feet. Adjoining sheets of geotextile fabric would be overlapped by a minimum of 12 inches in accordance with the manufacturer's recommendations. During construction of the GCLL, should the geotextile layer be torn, the layer would be repaired by placing a patch over the defect. The patch would overlap the edges of the defect by a minimum of two feet in all directions and secured with a manufacturer recommended water-based adhesive; the patch would not be nailed or stapled.

The bentonite component of the GCLL is dry when manufactured, and becomes hydrated by contact with natural moisture present in the surrounding materials. When hydrated, the bentonite swells, and the voids and spaces between the bentonite granules close. This swelling allows the GCLL to attain low permeability.

Synthetic geotextiles are made of stabilized polymers resistant to long-term degradation. Studies have shown that the HDPE liners of the GCLL have lifetimes of at least several hundred years (Rowe and Sangam 2002 in Geosyntec 2013b) and the natural and synthetic components of a geosynthetic clay liner will likely uphold hundreds of years under normal cover application conditions (Hsuan and Koerner 2010 in Geosyntec 2013b). (2014 DEIS, p.2-18)

The geotextile layer described in the first paragraph above and the overlapping of layers in the second paragraph suggests that the geofabric is not HDPE. But the fourth paragraph discusses the durability of HDPE, which is itself impermeable. It is also impenetrable to roots. Section **2.4.4.4 Operation and Maintenance of the GCLL** describes that tree roots may penetrate the GCLL. This suggests a material other than HDPE:

Response 7-10

Section 2.4.4.2 of the EIS has been revised as follows: “The GCLL consists of a layer of bentonite clay inserted between two geotextile layers. A geotextile is a woven sheet material that provides enhanced resistance to penetration damage. The top geotextile layer would be laminated with a 20-millimeter textured HDPE geomembrane layer, which would provide an additional layer of protection against desiccation and ion exchange degradation.”

Once construction is completed, operation and maintenance requirements of the GCLL would be limited. Lateral drains and down drains may require routine maintenance to maintain flow. The surface of the area where the GCLL is installed would be routinely inspected for erosion of the surface layers to assure that the GCLL or drain layer are not exposed.

The GCLL would be susceptible to damage from deep rooted species growing on the reclaimed surface of the area covered by the GCLL. The area covered by the GCLL would be revegetated with grasses and forbs, and would never be allowed to become revegetated by deep rooted tree and shrub species. Consequently, the area covered by the GCLL would be monitored in perpetuity and be maintained free of deep rooted tree and shrub species.

These descriptions of the GCLL appear to conflict with each other. If the GCLL includes two layers of HDPE then tree roots should not be able to grow into/thru the liner. If the GCLL does not contain HDPE then the thin bentonite layer is going to be the ‘key’ to preventing infiltration into the waste rock. This inconsistency should be clarified - and underscores why the regulatory agencies should require a permeability, not simply a specific commercial product.

Comment 7-11

The bottom line is that water must be limited from contacting seleniferous wastes in the waste rock. This would be best accomplished by a combined HDPE-clay liner.

The efficacy of HDPE is underscored by the discussion and application of HDPE under the Crusher, Stockpile, and Containment Pond (*see e.g.* figure 2.4-3).

It would be expensive but arguably the cost of preventing further selenium contamination and related environmental, CERCLA, and other costs is less than requiring a combined HDPE and GCLL combination. Together the HDPE would significantly reduce the chances of a leak, and the clay would increase the chance that if a leak occurs it would self-seal, maintaining the integrity of the liner. This would maintain the costs of potential impacts with the mining company, and not shift the risks to the environment and public. Given the consistent contamination and leaking at phosphate mines

Response 7-11

See Responses 7-9 and 7-10.

throughout Idaho, requiring both HDPE and clay seems eminently reasonable.

As discussed elsewhere, in all cases liner design should further employ a sand layer below and above the synthetic liner to protect it from compacting rock-punctures or human error (e.g. driving over the liner with heavy equipment or other vehicles).

Recommendation: It is critical to limit water from contacting selenium. Therefore, the run of mine overburden should be capped with a fully impermeable liner that can ensure permanence and leak detection. This should include compacted swelling clay plus an HDPE or similar geosynthetic liner capable of achieving a minimum permeability of permeability 1×10^{-6} cm/s.

Comment 7-12

2.5.5 Surface and Groundwater

Regarding groundwater the DEIS states that:

Runoff and sediment control facilities would be located off ODAs to the extent feasible to reduce infiltration of collected water into seleniferous overburden. (2014 DEIS, p. 2-24.)

The “extent feasible” can easily be interpreted to mean many things - impacted by many things such as cost, timing, weather, workforce or equipment availability. The DEIS should describe and commit to specific treatments and their application, without which it is merely a speculative document.

Recommendation: The location, design, and implementation of all runoff and sediment control facilities should be identified and evaluated in the DEIS and by agencies prior to agency decision-making or permitting. It is reasonable to provide for some flexibility in such matters but the range of designs/locations should be considered in the DEIS so that the public can review and comment on the range of options considered.

Comment 7-13

2.4.1.2 Description of Ore Conveyor System

The description of the ore conveyor system is generally good - particularly that it is covered to protect from exposure and curved/piped to prevent loss of materials. That the low-point of the

Response 7-12

Section 2.5.5 under the Groundwater heading of the EIS has been revised as follows: “Stormwater would be managed to reduce or eliminate contact with ROM. During construction of the East ODA, material would be left at angle of repose (i.e., not sloped) in order to minimize infiltration of snowmelt and stormwater. Once the slope is covered with a GCLL, runoff and sediment control facilities would be located off the ODA to the extent feasible in order to protect the reclaimed slope from erosion and damage related to heavy equipment use.” In addition and as described in **Section 2.4.4.2**, the GCLL would be designed with a drainage system that contains toe drains installed along the toe of the slope to allow the water collected in the drainage layer to be conveyed to the stormwater management features away from the cover area. Stormwater control features in relation to the ODAs are shown on **Figures 2.4.4, 2.6.1, and 2.6.2**. Impacts resulting from stormwater features are analyzed by resource throughout **Chapter 4**.

Response 7-13

Noise impacts to wildlife are discussed in **Section 4.8.2.2** of the EIS. **Section 2.4.1.2** under the heading of **Crossings** describes the four crossings designed to provide access to wildlife across the conveyor route. Direct and indirect impacts to wildlife,

system is only 3.5 feet from the ground could reasonably impede wildlife from crossing its above-ground portions (representing the super-majority) of its 4.5 mile length. The 2014 DEIS discusses this but further study and biological assessment and discussion are necessary to fully demonstrate impacts and develop alternatives/mitigation to ensure terrestrial wildlife is not adversely impacted by the physical conveyor system or the crossings.

The three 100-foot buried crossings for vehicles and wildlife seem insufficient when combined with the total miles of length.

Recommendation: Ensure that the conveyor system will not cause adverse impacts to wildlife (presumably terrestrial, but birds should be eliminated as a potential impact also). Ensure that mitigation measures for noise, direct impacts, or impacts to movement are fully mitigated.

Comment 7-14

Stockpile and Containment Pond

The 2014 DEIS states:

The M&RP for Panel F would be modified to allow for development of an ore stockpile, underlain by a high density polyethylene (HDPE) stockpile liner (Figure 2.4-3). (2014 DEIS p. 2-11)

The liner should extend so that it underlays the entire ore crushing and conveyor loading areas. Its design should be similar to the selenium stockpile area liners capable of sequestering water - in this case within the crusher/loading areas so that spilled material, dust, etc., will not contaminate the area below and down gradient. The stockpile liner should be a constructed or composited clay liner between two geosynthetic liners.

The stockpile liner should be specifically designed for capture and collection of fluid/contaminant runoff. This design should ensure that the liner is sufficiently designed - and protected so that heavy-truck traffic will not impair it. Further, the mining plan should implement monitoring via monitoring wells that can be used for pumpback should the liner fail. This is particularly important given the steep/sloped/steep nature of the hill into which it is being constructed.

including those associated with the crossings, are provided in **Section 4.8** of the EIS. No mitigation was deemed necessary for noise impacts to wildlife as **Table 4.3-5** demonstrates that the noise generated by the conveyor would be less than that generated by haul trucks currently being used as approved by the 2008 RODs.

Response 7-14

As shown in **Figure 2.4.3**, the stockpile and conveyor loading area would be underlain by an HDPE stockpile liner. The text in **Section 2.4.1.2** of the EIS under the subheading of Stockpile and Containment Pond (first paragraph) has been revised as follows: “The M&RP for Panel F would be modified to allow for development of an ore stockpile located within the footprint of the mined out north end of Panel F. The stockpile would contain a maximum of 140,000 tons of ore at any one time. The stockpile and point at which the ore would be loaded onto the ore conveyor system (ore feeder) would be located within a 250,000 square-foot area, and would be underlain by a protective liner (**Figure 2.4-3**)”.

The proposed HDPE liner is expected to adequately prevent infiltration from the stockpile area for the duration of operations. The text in **Section 2.4.1.2** of the EIS under the subheading of Stockpile and Containment Pond (first paragraph) has been revised to add the following text: “The liner, a high density polyethylene (HDPE) geomembrane, would be placed a minimum of 5 feet below the active working surface of the stockpile area to protect the liner system. A cushion layer (e.g., a geotextile or finely screened sand or gravel layer) would be placed directly above and below the liner as needed to prevent any damage to the liner during construction and operation. The

Recommendation: The stockpile liner should be a combined clay and geosynthetic liner, similar to the Geo-synthetic Clay Lamine Liner.

Comment 7-15

Recommendation: The lined area should include the footprint below the crusher and loading - and unloading - areas.

Comment 7-16

Recommendation: The stockpile, crusher, and loading and unloading areas should include monitoring wells sufficient to detect leakage from this area (such as from liner failure) and further that can be used for pumpback to capture contaminated leakage (that can then be sent for appropriate storage or treatment).

Comment 7-17

Wind will also blow contaminants from the stockpile onto surrounding areas.

Recommendation: If the seleniferous contaminant(s) is soluble, then an enclosed stockpile building should be considered. This could be a more cost-effective solution to both groundwater and

material between the upper cushion layer and active working surface would be crushed and screened chert or limestone. This information is detailed in a technical memorandum included in the Project Record.”

The liner would be removed when operations are complete; it is not intended to be part of the site reclamation.

Section 2.4.1.2 of the EIS under the subheading of Stockpile and Containment Pond (second paragraph) has been revised as follows: “The 250,000 square-foot area would be sloped to manage drainage. Runoff would be directed to a HDPE-lined pond, which would be located north of the stockpile and designed to handle a 100-year, 24-hour storm event. The pond capacity would be 18.3 acre-feet and constructed to have a large surface area to allow for evaporation.”

Response 7-15

See Response to 7-14.

Response 7-16

The current design of the stockpile area directs all potentially contaminated water to the lined containment pond as described in Response 7-14. However, there are two existing monitoring wells located downgradient of the proposed stockpile area, MW-F1 and MW-F1A, which could detect unanticipated contamination coming from the stockpile area. **Figures 3.4-1 and 3.4-2** have been revised to show these monitoring wells.

The lined containment pond would be situated on a mined out portion of Panel F that would not contain any alluvium. Any potential contamination resulting from a leak in the containment pond would be identified in either the existing monitoring wells (MW-F1 and MW-F1A) or from the downgradient springs (i.e. the Hoopes Spring complex) that are routinely monitored.

Response 7-17

As shown in **Figure 2.4-3**, the area containing the stockpile and loading area for the proposed conveyor would be underlain by an HDPE liner. Text under **Section 2.4.1.2** under the heading of Stockpile and Containment Pond indicates that runoff from this

off-area non-point source contamination that could be an expensive post-mining problem.

area would be directed to the HDPE-lined pond, also shown on **Figure 2.4-3**. The pond would be designed to handle a 100-year, 24-hour storm event. Therefore, enclosure of the stockpile area would not be necessary for control of non-point source contamination.

Regarding wind-blown contaminants, see Response 7-36.

2.4.8 Reclamation of Disturbed Area and Financial Assurances

Financial Assurance

Scoping for 2014 DEIS clearly identified estimating and disclosing calculations for the financial assurance in an EIS as an important issue:

We recommend that the NEPA analysis disclose the estimated cost to reclaim and close the site in a manner that achieves reclamation goals and post-mining land use objectives. The proposed financial assurance mechanisms should be identified. The analysis should disclose costs associated with implementing the reclamation plan, as well as costs associated with implementing contingency measures to deal with reasonably foreseeable but not specifically predicted outcomes. (2014 DEIS, p. 1-17)

In response to comments in the original Draft EIS (2005), it was noted:

Comment: Several commenters requested the detailed bond calculations be included in the Final EIS. (2007 FEIS, p. 7-54)

And the response to this comment in 2007 FEIS was:

Response: The BLM and FS have developed an actual-cost bond estimate for the Agency Preferred Alternative and a summary of this information is included in Chapter 2 of the 2007 FEIS. (2007 FEIS, p. 7-55)

In Chapter 2 of the 2007 FEIS there was an estimated financial assurance, and it was noted:

While not a requirement of the NEPA process, an actual-cost bond calculation is typically a requirement spelled out in the ROD. In

this case, an actual-cost reclamation estimate has been prepared for Panels F and G, using the Agency Preferred Alternative (Table 2.10-3), in order to give the public an idea of what the bond would include and an approximate value. This estimate would be refined as a condition of the Record of Decision when all conditions of approval are known. (2007 FEIS, p. 2-108)

However, in the 2014 DEIS, it is noted:

Reclamation performance bonds are calculated according to BLM policy regarding bond requirement and calculation guidance for phosphate mining operations (BLM 2013). The ROD would describe the methodology to be used to calculate the performance bond amount for the Project. (2014 DEIS, p. 2-21)

Why the BLM and Forest Service have chosen to exclude as estimate of the financial assurance in the 2014 DEIS is not clear, especially given the clear concern of several commenters for this information, and the BLM and Forest Services' recognition of the importance of the issue in the 2007 FEIS.

Comment 7-18

Recommendation: The new FEIS should include an estimate of the financial assurance for the project, as was done in the 2007 FEIS. An appendix in the new FEIS should include enough detail on the financial assurance calculations to allow an informed member of the public, like CSP2, to see what assumptions have been made, and how those were applied to the basic calculations.

Response 7-18

See Response 3-4.

Reclamation of Disturbed Area

The 2014 DEIS seems to pick and choose where it will diverge from the 2007 analysis. The reclamation plan, for example, is identified as something that was completed and is not being changed. The Lease Modification on certain lands are identified as something that will be changed. Much as the law changed allowing the agencies to allow Lease Modification³ on certain lands, in the seven years since the last EIS the understanding of reclamation and best practices have changed - behooving the regulatory agencies to revisit the reclamation requirements.⁴ The agencies and public have also changed in their understanding of the sources and impacts of selenium from phosphate mining in Idaho (and elsewhere).

Comment 7-19

It seems imprudent if not unreasonable for the agencies to simply ignore and largely not modify the seven-year old analysis when available science and study demonstrates that an old study/conclusions are no longer the best available. Simplot's requested modifications should trigger a re-analysis of reclamation and bonding requirements to ensure that the agencies' 2014 decisions reflect the latest science and practices in all areas of mining - not just those that benefit the company.

These comments reflect the importance of re-assessing reclamation requirements approved in the 2008 Record of Decision.

The 2014 DEIS states that:

Reclamation specified by the currently approved M&RP includes shrubs and trees to be seeded or planted in clusters where they are most likely to establish and where there are no concerns relative to the integrity of the overburden covers or potential selenium uptake. Reforestation of reclaimed surfaces would not be implemented in areas covered by the GCLL in order to maintain its integrity. A seed mix approved by the USFS would be applied during reclamation. All other disturbed areas would be reclaimed in accordance with the 2008 BLM ROD. (2014 DEIS at p. 2-21)

2.5.3 Soil

The 2014 DEIS provides for soil resources with the following:

Soil resources in the proposed disturbance areas have been described with baseline surveys. Suitable topsoil and growth medium from disturbed areas would be salvaged and stockpiled for use in reclamation. Soil stockpiles would be protected from erosion by seeding and establishment of short-term vegetation cover. Reclamation of disturbed areas that are no longer required for active mining operations would be conducted concurrent with other mining operations. (2014 DEIS at p. 2-23)

Response 7-19

Simplot's proposed use of a GCLL specifically recognizes changes in reclamation practices over the past seven years. At the time of the 2007 FEIS, the use of a GCLL was not an established practice and deemed to be economically unfeasible, but now GCLLs are being used for reclamation in some mining operations in the region (see Response 7-3). Use of a GCLL would require the exclusion of deep-rooting vegetation species such as trees, but otherwise the reclamation requirements from the 2008 RODs would remain unchanged. As described in **Section 2.7** of the EIS, the Agencies' Preferred Alternative would balance the environmental advantages and disadvantages of the two cover types. Thus, the Preferred Alternative takes into account changes in technology, economics, and scientific understanding that have evolved over the past seven years.

The 2007 FEIS establishes the amount of available soil for reclamation based on the amount of soil that will be salvaged. It provides:

Soil salvage would be based on suitability criteria as described in this document, including site slope and configuration. Direct haul and placement of growth medium to sites ready for immediate reclamation would minimize the need for stockpiling the material and would be done whenever possible. Based on suitable soil depths shown in Tables 3.4-1 and 3.4-4, the average potential topsoil stripping depth for soils within the area of the Proposed Action is estimated to be about 22 inches. A summary of in-situ topsoil/growth medium volumes for mapped soil units in the area of the Proposed Action and Alternatives is presented in Table 3.4-4. These mapped units occur within a specific study area and do not represent the entire area encompassed by the transportation alternatives or haul/access roads. The total volume of suitable, in-situ growth medium to be salvaged with implementation of the Proposed Action is estimated at 3,962,700 cubic yards. The amount of growth medium to be salvaged was calculated using the estimated 1,340 acres of disturbance and the average topsoil stripping depth of 22 inches (1.833 feet). Although the topsoil within the topsoil stockpile footprints would not be salvaged, once the stockpiled topsoil is removed from these areas and used for reclamation, the existing topsoil underneath the stockpiled locations would be ripped and scarified to aid in reclamation. Thus, this proposed disturbance acreage was included in calculating the available topsoil to be salvaged.

Considering the effects of inaccuracies in the estimation of average thickness of suitable soils within the disturbance footprint, potential swell of soil volumes during excavation, and potential compaction of soil during reapplication, the resulting re-applied soil would yield a layer of growth medium of about 18 inches (ranging from one to two feet) available for placement over the 1,269 acres of disturbance to be reclaimed. Growth medium placed to this depth would enhance the long-term productivity of the reclaimed areas. The actual total volume of available growth medium resources may be slightly different than estimated, due to variable site conditions. (2007 FEIS at p. 4-111, 112)

Comment 7-20

This requires two points in response. First, the plan should ensure that all usable material is salvaged.

The Plan and permit should require salvaging all topsoil and subsoil from areas disturbed by mining activities - regardless of location or volume. Post-mine plant growth and establishment benefit substantially from maximizing plant growth media (soils), particularly where agriculture is a proposed post-mine land use. The more soil, the better the post-mine revegetation success, particularly in the first five years.

Comment 7-21

Second, the reclamation plan should establish the amount of material needed, and work backwards to secure that material from onsite salvage, and if necessary, from offsite salvage. Eighteen inches is indeed between one and two feet, but the difference between one foot, eighteen inches, and two feet of soil can make a considerable difference to long-term reclamation success.

Comment 7-22

The best reclamation practice would be for the company to salvage existing soil materials in two lifts - the first being A and B horizons and the second lift being sub-B-horizon. During reclamation (re)placement, the lower horizons should then be placed as the first step of replacing cover material, upon which the upper (A and B horizons) would be placed. The net effect is more cover material that will better support plants and more quickly further develop soils than just the A and B horizons placed on top of sand, waste rock, liners, etc.

The topsoil salvage piles will stand unused for years. As a result the soils quality will degrade during mine operations and the soil value will be reduced from when it was salvaged compared to when it is replaced. To preserve soil integrity (including organic materials,

Response 7-20

All suitable growth media would be salvaged during mining activities, as described in **Section 3.5.1.3** of the EIS.

Response 7-21

As shown in **Figure 2.4-5**, the GCLL design assumes a minimum of 12 inches of topsoil.

Table 3.5-3 of the EIS provides an accounting of the estimated amount of topsoil and suitable subsoil horizons that would be available for reclamation. This table contains an estimate of 686,842 cubic yards of soil material from the proposed approximately 170 acres of disturbance, and although this is just an informed estimate, this volume of material would cover the disturbed area with about 2.6 feet of salvaged material. The estimate of 1 to 2 feet of soil was a minimum, preliminary, conservative estimate. All suitable soil materials, as described in detail in the baseline soil report, in areas approved for disturbance, would be salvaged and used for reclamation.

Response 7-22

As stated in **Section 2.5.3**, topsoil stockpiles would be protected from erosion by seeding and establishment of short-term vegetation cover.

Sampling of select physical and chemical properties occurred as part of the original baseline assessment of soil resources and would occur again once salvaged material has been replaced to determine what amendments may be necessary. As part of routine reclamation practice, Simplot conducts agronomic sampling, which tests for nitrogen, phosphorous, potassium, etc.

The M&RP, along with the baseline soil resources report, provides the detail and flexibility needed for Simplot to salvage

microbes such as mycorrhizae, promote aeration, reduce weed introduction, and reduce erosion, the Reclamation Plan should identify specific steps that it commits to employ to establishing ‘nurse’ crops on the topsoil salvage piles. These plants should be consistent with, and not compete, with the planned postmine revegetation, especially agricultural seeding/planting.

The Reclamation Plan should analyze and the company should commit to characterizing stored topsoil resources (one or two years prior to starting reclamation) to identify basic physical and chemical characteristic. These results can then be used to modify the reclamation plan and determine what, if any, amendments are necessary and appropriate to enhance and ensure revegetation success. Criteria should include material size fractions, nutrients, pH, microbial condition (such as mycorrhizae), and organic content. Sampling should be done at the surface and deep in the piles. This will ensure that the replaced soil and subsoil materials/horizons are best able to support post-mine agricultural goals. By sampling and evaluating the materials before they are disturbed, the mine can mix-in organics and other materials/amendments that may be necessary to ensure they are fully integrated into the replaced soils (as compared to simply added as top-dressing).

Recommendation: The Plan should develop detailed topsoil salvage and storage plans to ensure that the maximum amount of materials is salvaged for reclamation. These materials should be stored to maximize soil health and reclamation efforts. To ensure that all viable growth media is salvaged, characterization of materials should include field observation and not solely rely on a ‘standardized’ depth measurement.

Reclamation - Soils

The 2008 Record of Decision states that:

The USFS will determine soil suitability in accordance with USDA Forest Service Soil Salvage guidelines (USDA 2003a). Baseline surveys have been completed to identify available topsoil resources. Simplot will salvage suitable topsoil and growth medium and transport it directly to areas being reclaimed, or temporarily

soil in a way that values the resource and provides for reclamation. See Response 7-21 for topsoil salvage and use in reclamation. As described in the EIS, salvage of soil is determined based on suitable physical and chemical properties (**Table 3.5-2**). The EIS is tiered to the 2007 FEIS, and the text from the 2007 FEIS includes an overview of soil conditions in the Project Area using terms such as an “average” depth of available topsoil per soil map unit. In this case, the use of averages allows the reader to visualize the depth of the estimated salvage volume spread evenly over the acres of disturbance, and it is not prescribing a “standardized” depth to which topsoil resources would be stripped. It is Simplot’s responsibility to utilize the information available in the baseline soil resources report to guide salvage operations. Periodically, as part of routine inspections and as requested, an Agency soil scientist would provide additional site-specific recommendations in the field during soil salvage activities.

stockpile in approved locations along the Haul/Access road prism. Temporary stockpiles will be seeded with short-term vegetation cover. Simplot will reduce the loss of soil fertility within the Project area by incorporating slash into the salvaged growth medium to increase the organic matter content, by mixing soil types with appropriate coarse fragment content to maintain proper fragment ratios. Salvage operations will be timed to optimize revegetation. In the reclamation areas and beneath stockpiles, compacted soils will be loosened using appropriate methods to a depth of 12 inches to allow unrestricted root growth. (2008 BLM ROD, p. 32)

The 2014 DEIS considers soil salvage largely in terms of selenium or other contamination. It states:

3.5.1.4 Potential Salvage Limitations Based on Heavy Metal Content

In an effort to develop soil suitability standards for use in reclamation efforts, Simplot has used guidelines developed by the CTNF specific to selenium (USDA 2003). This guideline states that soils with less than 13 milligrams per kilogram (mg/kg) total selenium or 0.10 mg/kg extractable selenium have been demonstrated to yield vegetation that meets applicable reclamation standards for selenium. While these limits are not mandated, such guidelines may help assist with decisions regarding soil suitability. Although additional metals, such as nickel, zinc, and cadmium, may be present in unsuitable levels, selenium has been identified as a parameter affecting soil management.

*For the soil map units identified within the Project Area, **Table 3.5-4** presents the maximum selenium concentrations for sampled soils based upon the data provided in Maxim 2004c. In addition, concentrations for cadmium, nickel, and zinc are also included, even though there are currently no specific guidelines that would limit use in reclamation. (2014 DEIS at p. 3-27).*

Neither of these provides sufficient detail to ensure that maximum soil is salvaged and re-used for reclamation. The higher the volume and quality of topsoil (soil growth media) then the better the likelihood of successfully establishing durable vegetative covers. The discussion of contaminants is important when considering what soils to salvage. Equally important is the reality that the existing

soils have developed steady, self-sustaining vegetation and not caused excessive known impacts to wildlife or water quality. As a result, it is appropriate to consider contaminants - but also to consider that these areas of contamination will be mixed with less- or non-contaminated salvaged soils (during collection and replacement during reclamation) and that their contaminants will be mixed. The CTNF Standards are reasonable - but should be considered in light of the importance of growth media to obtain successful reclamation.

The 2014 DEIS references and discusses the USGS (NRCS)/USFS adopted criteria (See USDA. 2013b. Soil Survey Staff. Natural Resources Conservation Service. ENG-Construction Materials; Reclamation. August 21, 2013) and other materials. These are important guidelines but should be considered as guides, not rules, which should be balanced against local agency expertise to maximize soil material salvaged and required for reclamation. They should also be viewed in light of the limited representativeness of the soil-contaminant data. The 2014 DEIS suggests that samples are not necessarily reflective of broad soils trends/contamination and therefore that conclusions about soil suitability are suspect.

The 2014 DEIS states:

It should be noted that data collected from individual soil sample sites, especially within soil inclusions within various soil complexes, may not be representative of the surrounding soil in the major map unit based upon soil sample laboratory analysis reported in Maxim 2004c. (2014 DEIS at p. 3-28; see also 2007 FEIS at p. 3-98)

Comment 7-23

The agencies should establish specific topsoil objectives and requirements to ensure that all reasonably suitable growth media is salvaged to maximize the potential for revegetation success (balanced against the need to minimize contamination from soil contaminants). The greater the depth/quantity of topsoil (soil growth media) then the greater the likelihood of revegetation success. Long-term vegetation success will significantly depend on greater soil depths compared to short-term vegetation success. Greater soil depth may not benefit revegetation success in the few-year period of revegetation monitoring but greater soil depths is highly likely to benefit longer-term (that is, permanent)

Response 7-23

See Response 7-21 for topsoil salvage and use in reclamation. Soils would be amended as needed, based on the outcome of testing of agronomic samples (see Response 7-22).

revegetation success. It would be a waste - and potentially impair long-term revegetation success to not salvage, preserve, and re-use all appropriate topsoil resources. Further it could impair long term revegetation success to not ensure that all sites have sufficient growth media. Soil salvage, storage, and replacement represent a cost to mines that should not outweigh the benefit of long-term reclamation success.

For the mining company, extra topsoil salvaged and used for reclamation may be more of a liability than a benefit because it means extra near-time costs of operations and the extra benefit of long-term reclamation success will not be realized for decades (the company seeks the return of its bond and then it will leave the site forever). For the public - increasing revegetation success is highly valuable - and it is the public that will ultimately be responsible for the site when the company leaves.

Therefore, it is important to ensure that all usable soils materials are salvaged and effectively used for reclamation. Where the existing materials are deficient, such as from too much clay or a contaminant, then those deficiencies should be mitigated - much as the mine does for other features in the mine plan - to render the soil into a usable condition (such as thru mixing, amendment, or special handling.

Comment 7-24

Recommendation: All soil material that is not critically contaminated (such as by selenium) should be salvaged, stored, accounted for, and distributed to maximize revegetation potential. Where necessary, the soil materials should be treated to increase suitability, such as by mixing, amendment, and selective handling/placement.

The Plan and permit should eliminate from salvage only those soils known to be significantly deleterious, such as from high selenium or metals contamination - IF those soils cannot effectively be mitigated for suitable use.

Comment 7-25

The goal should be maximizing salvaging all topsoil and subsoil from areas disturbed by mining activities - regardless of location or volume. Post-mine plant growth and establishment benefit substantially from maximizing plant growth media (soils), particularly where agriculture is a proposed post-mine land use. The

Response 7-24

See Response 7-22.

Response 7-25

See Responses 7-21 and 22.

more soil, the better the post-mine revegetation success, particularly in the first five years.

The best reclamation practice would be for the company to salvage existing soil materials in two lifts - the first being A and B horizons (separately if they are sufficiently thick to separately salvage) and the second lift being sub-B-horizon. During reclamation (re)placement, the lower horizons should then be placed as the first step of replacing cover material, upon which the upper (A and B horizons) would be placed. The net effect is more cover material that will better support plants and more quickly further develop soils than just the A and B horizons placed on top of sand, waste rock, liners, etc.

The topsoil salvage piles will stand unused for years. As a result the soils quality will degrade during mine operations and the soil value will be reduced from when it was salvaged compared to when it is replaced. The EIS describes storage but it is essential to preserve soil integrity (including organic materials, microbes such as mycorrhizae, promote aeration, reduce weed introduction, and reduce erosion. To achieve this the Reclamation Plan should identify specific steps that it commits to employ to establishing 'nurse' crops on the topsoil salvage piles. These plants should be consistent with, and not compete, with the planned postmine revegetation, especially agricultural seeding/planting.

The Reclamation Plan should analyze and the company should commit to characterizing stored topsoil resources (one or two years prior to starting reclamation) to identify basic physical and chemical characteristic that will more accurately identify benefits and deficiencies discussed in section 3.5.1.3 Topsoil/Growth Medium Suitability (2014 DEIS). These results can then be used to modify the reclamation plan and determine what, if any, amendments, mixing, or other treatments are necessary and appropriate to enhance and ensure revegetation success. Criteria should include contaminants, material size fractions, nutrients, pH, microbial condition (such as mycorrhizae), and organic content. Sampling should be done at the surface and deep in the piles. This will ensure that the replaced soil and subsoil materials/horizons are best able to support post-mine agricultural goals. By sampling and evaluating the materials before they are disturbed, the mine can

mix-in organics and other materials/amendments that may be necessary to ensure they are fully integrated into the replaced soils (as compared to simply added as top-dressing). The mine's existing sampling is informative but does not substitute for assessing the salvaged materials when they are going to be used.

Comment 7-26

Recommendation: The regulatory agencies should specify detailed topsoil salvage and storage plans to ensure that the maximum amount of materials is salvaged for reclamation. These materials should be stored to maximize soil health and reclamation efforts.

Vegetation

The 2014 DEIS provides general requirements for revegetation. It states:

Timber would be cruised by the USFS and then harvested from proposed disturbance areas as directed by the USFS. Simplot would purchase the timber at the market value appraised at the time of harvest. Small brush and slash would be incorporated in the topsoil when it is salvaged. (2014 DEIS p. 2-23)

Revegetation of disturbed areas would be conducted during reclamation activities by seeding and planting with the vegetation species mix approved by the USFS. Seeding would proceed no later than the first fall after earthwork is complete. (2014 DEIS p. 2-23)

Comment 7-27

Earthwork should be timed to ensure that no large areas of untreated lands are exposed during the winter. To the maximum extent practicable, the agencies should require that earthwork and revegetation are timed to protect reclaimed areas and minimize loss of seed and treatments and minimize erosion or surface failure.

Comment 7-28

The 2014 DEIS' discussion of contaminated soils, discussed above, suggests that plants growing on the contaminated soils will be/have accommodated to the contaminants in the soils. Therefore, it is appropriate for the regulatory agencies to require seed harvest from those areas where soils are known to be contaminated. During the reclamation phase, this seed should then be applied to re-soiled areas where soil may be contaminated. This will help ensure that revegetation species are maximally adapted to the soils

Response 7-26

See Responses 7-21 and 22.

Response 7-27

Section 2.5.4 has been revised to include this recommendation as follows: "Reclamation earthwork would be timed to ensure that no large areas of untreated lands are exposed during the winter months."

Response 7-28

Contaminated soils would not be considered suitable for reclamation; see Response 7-22. Therefore, seed harvested from plants in areas of contaminated soil would not be appropriate for revegetation use.

Recommendation: Seed from plants growing in areas where soil is known to be contaminated (of concern) should be harvested prior to mining disturbance and used as a seed source for reclamation of areas where that contaminated soil is used for reseeding.

Revegetation

The 2014 DEIS describes generalized reclamation goals. The 2007 FEIS describes more detail about revegetation but neither are sufficiently detailed and neither have meaningful revegetation/reclamation criteria.

The 2007 and 2014 DEIS' state:

Reclamation monitoring would follow for a period of a few years to ensure reclamation meets agency requirements. (2007 FEIS at p. ES-1)

Revegetation would be conducted to stabilize reclaimed surfaces with perennial vegetation communities and restore a post-mining land use for multiple use management. Livestock grazing in reclaimed areas would be controlled until the areas have become stabilized and are deemed ready for grazing by the USFS. (2014 DEIS p. 2-23)

Comment 7-29

The Reclamation Plan should establish specific goals for essential revegetation features and not just generalized, conceptual goals. There should be clear noxious weed criteria, based on basal and aerial cover, which should be used to trigger treatment and/or retreatment.

Recommendation: Establish minimum percentage vegetative cover goals of at least 50% after three years and 80% for five years before determining "success" or allowing relevant bond release.

Response 7-29

The 2008 RODs includes specific reclamation criteria, which would also apply to the current modification. For example, page 8 of Appendix II in the BLM ROD states, "A minimum of 60 percent groundcover or 85 percent of pre-existing cover conditions will be met for three consecutive years on reclaimed areas. Proportions of vegetation litter and rock should be similar to pre-existing conditions."

Requirements applicable to noxious weeds may be found in the BLM 2008 ROD, Appendix II, page 3, which states, "Simplot will continue their program of monitoring and controlling noxious weed infestations. Simplot will develop a plan for annual noxious weed treatment." In addition, **Section 2.5.4** of the EIS states, "In order to control and prevent the spread of noxious

weeds, Simplot would comply with guidelines established by the USFS.”

Comment 7-30

Vegetation cover goals should be established. Further, the percentage cover should be required to persist for at least 5 consecutive years prior to bond reduction or release. Plant growth (germination and early growth) is not as important as long-term establishment.

The 5-year period described for bond reduction/release should restart whenever revegetation activities are taken to enhance revegetation. The goal of any minimum period should be reasonably demonstrating that plants have established and are self-sustaining. If supplemental activities are taken (such as watering, adding amendments, fixing erosion or subsidence, recontouring, reseeding, planting, weed control, etc.) then the clock should restart to ensure that vegetation is actually surviving on its own. The 5-year period should demonstrate the site’s ability to sustain itself - not demonstrate that with various treatments the company can keep the site growing.

Recommendation: Revegetation success should be measured no sooner than five years after revegetation goals have been met - without additional treatments or activities. If additional treatments or activities are undertaken, the 5-year clock should restart to ensure that revegetation and long-term plant establishment has actually occurred.

Comment 7-31

Because post-mine land uses will not be homogenous, it will be important to establish criteria for both alpha and beta diversity. Such criteria should make clear both aerial and basal cover-percent and further identify criteria for success and failure for both alpha and beta diversity. Without these standards revegetation could achieve some goal or required percent coverage but not establish, or even provide a reasonable ecological basis for future establishment of the diverse vegetative cover that will persist and support post-mine land uses. These standards should roughly mimic the pre-mine alpha and beta diversity numbers for the mine, broken down into appropriate sub-regions. The goal should be to ensure that both species numbers and richness are established - which is necessary to achieve post-mine land use goals.

Response 7-30

See Response 7-29.

Response 7-31

Phosphate mine reclamation direction for lands managed by the CTNF is found in the RFP under Prescription 8.2.2(g) (RFP pages 4-82 to 4-84) and under Forest-wide Standards and Guidelines for Minerals and Geology, Drastically Disturbed Lands (RFP pages 3-13 to 3-12). For example, Guideline 2 on page RFP 3-14 states “Selection of plant species for establishment should reflect the surrounding ecosystem and post-remedial land use. Plant material used should be adapted to the climate of the site. Consideration and preference should be given to promoting natural succession, native plant species, and structural diversity.”

Recommendation: Establish clear alpha and beta diversity requirements for vegetative cover.

With regard to reclamation for phosphate mines, the Forest's first priority is to assure that factors such as surface and groundwater standards, bio-accumulation, and surface water management are adequately addressed and effectively managed; managing for species diversity is secondary.

Weeds

The 2014 DEIS describes generalized to be followed for weed prevention. The 2007 FEIS similarly describes generalized and some specific planning to prevent weeds but neither are sufficiently detailed and neither have meaningful revegetation/reclamation criteria.

The 2014 DEIS states:

In order to control and prevent the spread of noxious weeds, Simplot would comply with guidelines established by the USFS. This includes cleaning all off-road vehicles prior to entering and re-entering the Project Area and using only certified weed-free seed, mulch, straw bales, etc. (2014 DEIS p. 2-23)

The Reclamation Plan does not establish a detailed weed control plan, but weeds could significantly threaten the post-mine land uses. Weed problems can begin during the first stages of mining, particularly during topsoil salvage operations and establishing nurse crops, when weeds can begin to take hold.

Comment 7-32

Recommendation: A weed-prevention program should be developed and implemented. At a minimum, this plan should include, but not necessarily be limited to:

- 1. Certification of weed-free seed and weed-free hay/mulch;***
- 2. Detailed requirements and processes to prevent weed introduction (such as washing vehicles entering the site);***
- 3. Weed criteria identifying 'triggers' for weed treatment.***
- 4. Weed-response plan identifying how weeds will be controlled if they do come to the site.***

Comment 7-33

Recommendation: Establish clear noxious species/weed financial surety criteria, including the lowest amount of weeds that will trigger treatment and the highest allowable percentage of noxious weeds that will be allowed for bond reduction or release.

Response 7-32

See Response 7-29 and **Section 2.5.4** of the EIS.

Response 7-33

Noxious weed control is a standard part of bond calculations, and would be included in the performance bond for this Project. The BLM and the USFS conduct routine (typically monthly) mine inspections to provide the required oversight and assure that

Comment 7-34

Erosion

Neither the Reclamation Plan nor the Mine Plan describes adequate preventative reclamation methods to reduce overburden slope erosion or measures to ensure that erosion does not contaminate surface waters. The Reclamation Plan should describe detailed methods to be employed to prevent erosion. Should those methods prove inadequate then further planning and implementation should be employed. Methods to prevent erosion may include, but not be limited to, dozer basins, terraces, rock and rip-rap placement, etc. What matters is to ensure that prevention takes primacy over responses to failure.

Where erosion does occur there should be a clear commitment to not only correct the cause/problem but to employ further preventative measures.

The Reclamation Plan should establish specific goals for erosion - the failure of which will trigger specified responses. Given that erosion may occur many years after successful revegetation (such as after a drought year stresses erosion-protecting plants or a particularly wet year or piping causes new or increased erosion) it is important for the Reclamation Plan to develop these goals and commitments.

Recommendation: The Reclamation Plan should establish clear, measurable erosion goals including success criteria (such as less than x-feet of rilling per y-area and no erosion wider or deeper than z-inches) and responses to failure to meet those reclamation criteria, including but not limited to treatment protocols; long-term protection from post-reclamation disturbances; timeframes over which success will be measured and how criteria failure or re-treatment activities will re-start timeframes, etc.

Comment 7-35

Reclamation Maintenance

In the first two years after construction, reclaimed sites should be monitored (at least) monthly to ensure that problems are detected early-on. Where no problems are evident for one year those inspections may be reduced to quarterly. Where no problems are evident after two years of quarterly inspections then the inspection

noxious weeds receive an acceptable level of treatment to meet reclamation goals and requirements.

Response 7-34

As stated in the 2008 BLM ROD, Appendix II, on page 8 under the heading of Surface Water Monitoring, "Simplot will monitor for the formation of erosion related rills on the external overburden fills and backfilled surfaces. Where necessary, corrective actions will be taken."

Response 7-35

These are important issues and we concur. Common prevention methods currently utilized at the mine include sediment basins, ditches, armoring via rip-rap, etc. These methods would also be employed for the proposed modifications. Erosion control features and potential erosion are items routinely evaluated

frequency may be reduced to twice per year. The timing should be reasonably based on capturing problems early-on and should be approved by the state regulatory agencies. If a problem is detected that requires remedial action then the inspection schedule should restart for that site.

Recommendation: Inspection of reclamation at all sites should be based on a decreasing schedule of frequency that begins with a monthly or every-other-month schedule and reduces to quarterly after one year and semi-annually after two years of each inspection schedule without the need for remedial actions. If remedial actions are required then the inspection schedule should re-start for that site.

4.3.2 Air Resources - Direct and Indirect Impacts

The potential for fugitive dust from the Conveyor System to contaminate surrounding areas should be fully examined.

The 2014 DEIS states:

Panel F Ore Conveyor System

There would be several emission points along the proposed ore conveyor system between Panel F and the mill. These include locations of material transfer, crusher and screen operations, and stockpile wind erosion.

Approximately seven material transfer sites are planned outside of an enclosure or transfer tower. (2014 DEIS, p. 4-8)

The DEIS further concludes that the Conveyor System will reduce emissions over truck traffic.

Comment 7-36

Monitoring should be required to determine if contaminated dust, particularly selenium-contaminated dust is not leaking from and/or settling/concentrating near the conveyor or being concentrated/transported by precipitation or stormwater.

Moreover, these points should be considered beyond their potential air contamination to ensure that the dust or particulates that emit from these points do not concentrate or otherwise cause contamination. In other words, air emissions may not violate air quality regulations but over time the emitted particles may

during inspections conducted by both Simplot and the Agencies. Areas of erosion are assessed on a case-by-case basis and repaired appropriately. As stated on page 8 of Appendix II in the 2008 BLM ROD, “Simplot will monitor for the formation of erosion related rills on the external overburden fills and backfilled surfaces. Where necessary, corrective actions will be taken.”

Response 7-36

Selenium in dust generated from the operation is not predicted to be an issue and there is not an indication that specific monitoring is warranted. This is discussed on pages 6-15 through 6-17 in Chapter 6 of the 2007 FEIS, specifically: “Past monitoring results obtained from MSHA indicate that Simplot’s Smoky Canyon Mine controls dust at the mine to well below the applicable nuisance dust Threshold Limit Values (TLVs) of 10 mg/M³. ... The majority of dusts generated from mining and transportation activities are likely to settle soon after generation. Selenium

accumulate on or off-site and cause soil or water contamination.

Further, the pipe-conveyor should be evaluated during use to ensure that it does not cause contamination from the ore or the empty/return trip. Pipe-conveyor belt manufacturer literature suggests that even on the return trip (empty) that contaminants sticking to the belt do not leak - but it may be difficult to contain dust and small particles in any moving structure. Therefore the regulatory agencies should require and the mine implements an appropriate study to measure dust and particle leakage (and liquid during wet conditions) from the conveyor system. Because of the high volume of material being transported it is important to ensure that the conveyor system is not creating a linear contamination zone. This may be akin to railcars or truck traffic that may “lose” only a very small quantity per unit transported but over time these small quantities add-up and may cause significant contamination (and their transit corridors themselves become contamination sources).

Recommendation: Monitor dust from the Conveyor System, including loading and unloading facilities and where storm water may transport contaminated, precipitated dust or particulates. Similarly, monitoring should be capable of capturing liquid from inside or outside of the conveyor that could spill or otherwise leak (notably during wet weather).

emissions may result in levels at 0.0005 mg/M^3 , with a TLV of 0.2 mg/M^3 ; 0.25 percent of the TLV."

"We conclude from the above that the amount of selenium in the dust fallout from Panel G would present a negligible to minor impact to surface water quality, topsoil quality, or vegetation in the adjacent fallout area. This conclusion is also applicable for Panel F because, if the calculations were done, lower impacts would be estimated due to the calculated dust releases for Panel F being lower than Panel G. The same can also be said of the Panel G West Haul Road because the selenium concentration in the dust would be over an order of magnitude less than Panel G (1.5 mg/Kg v. 41.7 mg/Kg) and would be spread out over a larger fallout area than Panel G. This would result in significantly lower impact levels than are estimated herein for Panel G."

Further, **Section 4.3.2.1** of the EIS, under the heading of Panel F Ore Conveyor System discusses anticipated fugitive emissions. **Table 4.3-2** indicates that the conveyor would reduce fugitive emissions below those estimated for haul truck traffic. Therefore, fugitive emissions from the conveyor would be anticipated to be less than those described in the 2007 FEIS, which were a fraction of the TLVs.

As stated in **Section 4.3.2.1**, IDEQ concurred that the proposed conveyor system meets the permit to construct exemption.

Materials are already transported to the unloading location at the mill; the Proposed Action would not change operations at that location. The unloading area at the mill is part of previously approved operations, which is out of the scope of analysis for this Project.

The transfer towers where the ore would be loaded onto or unloaded from the conveyor would be contained within buildings or tunnels (**Section 2.4.1.2** of the EIS), which would prevent precipitation from entering and collecting in the pipe conveyor. The only potential liquid in the conveyor would come from the ore itself. The conveyor belt would be rubber reinforced with steel cable, which would be impermeable to water, and thus would not leak water along the length of the conveyor. The conveyor belt is rolled to form a pipe (**Section 2.4.1.2** of the EIS)

Comment 7-37

Recommendation: Given the statistical probability of human error or mechanical failure, and the potential during a conveyor spill/failure for ore conveyed to contaminate waterbodies (e.g. Sage Creek) over which it is crossing, the regulatory agencies should require the mine to develop a conveyor system monitoring, failure/environmental response and mitigation plan.

Commitment to Reporting

It is important that the public be able to participate in all phases of mine permitting, operations, closure, and post-closure activities. To support this need, monitoring and discharge reports, including reporting on contamination of surface and ground water, should be made publicly available in a timely manner.

Comment 7-38

The mine should immediately notify the public of leaks, contamination, etc., and develop a system for such timely notification in a way that is broadly accessible to all affected parties. This is essential for trust and to develop a working relationship with the public, especially affected communities. Adequate monitoring is the only way to determine spills and their impacts. Unknown leaks, or leaks that employees fail to report or attempt to hide will remain undiscovered and their contamination will continue or disperse unless monitoring is in place to detect them. Adequate monitoring before, during, and following mining also protects the company, because it allows all involved to determine what is caused by the mine versus other sources/causes.

where the rubber belt would overlap itself, with the seam on the top of the pipe, which would significantly limit water or dust escaping from the pipe.

Response 7-37

The conveyor is a closed system in which the conveyor is rolled to form a pipe, as shown and described in **Figure 2.4-2**. The conveyor system would be designed with in-belt sensors or external camera systems to detect malfunctions, and the conveyor would be shut down should there be a break in the belt. The conveyor would be following the haul road at the point where it would cross Sage Creek. At that point, the conveyor would be on the west side of the existing haul road, approximately 43 feet from the edge of the existing road near Sage Creek. Should the conveyor belt fail at that point and be shut down, there is potential for the ore uphill in either direction from that point to discharge at the break, spilling out onto the haul road. However, the amount of ore in that section of the conveyor would not be enough to accumulate and spill over the edge of the haul road into Sage Creek.

Response 7-38

In addition to annual reporting requirements to the BLM, monitoring and discharge reporting is handled through EPA's Enforcement and Compliance History Online (ECHO) system, which provides the public with facility details, including types of permits held, compliance and enforcement history, permit limits, and other related information (<http://echo.epa.gov/>). The mine is also required to immediately notify the BLM, USFS, and other jurisdictional agencies of accidents, spills, and other environmental impact events.

Recommendation: Contaminant release and incident reporting structures should require that the company provide environmental data and reports to the public. There should be full transparency and the company should commit to informing the public and government about any unplanned or unpermitted releases as soon as it becomes known - not just during the regular document/reporting cycle. Annual or even quarterly reports do not adequately address the public's right to know about problems at the mine. These are essential for good operating procedures and public trust.

Comment 7-39

Before permit issuance, actual monitoring points for all monitoring should be clearly identified in terms of location and times of sampling. Moreover, monitoring points should be representative and be close to the discharge, to prevent long mixing zones that may become essentially sacrifice zones.

Response 7-39

This Project is a proposed modification to an approved M&RP, and monitoring points are described in the 2007 FEIS. Additional monitoring points required by CERCLA are identified in the RI/FS Report. The monitoring points are selected in consultation and coordination with the agencies responsible for compliance. These considerations include early detection of contamination.

**Chapter 5 Cumulative Effects / 5.4 Surface Water Resources /
5.4.3 Past and Present Disturbances**

In analyzing the cumulative impacts in the 2014 DEIS, as was noted in Section 2.3.2 CERCLA Studies and Remediation, it is noted:

*While remediation actions have been taken and will continue into the future for the Smoky Canyon Mine, they have no bearing on the previously approved mining operations at Panels F and G. Further, the mining of Panels F and G has no connection to existing water quality impacts to Smoky Canyon Mine that is currently under investigation because the South Fork of Sage Creek drainage, which essentially separates Panels F and G (to the south) and Panels A through E (to the north), is the low point for both areas and groundwater flows converge to this low point from both directions. For these reasons, this EIS will focus solely on the proposed mine and lease modifications for Panels F and G described in Section 2.4. (2014 DEIS, p. 2-4, **emphasis added**)*

Comment 7-40

Even though Panels F and G are in the Deer Creek sub-drainage of Crow Creek, while Panel E is in the Sage Creek sub-drainage of Crow Creek, there could potentially be cumulative impacts to Crow Creek due to the combination of past (Panels A-E) and future (Panels F-G) mining.

BLM also noted in its 2008 ROD:

*Since the analysis in the EIS was completed, the **BLM has approved a more stringent reclamation plan at Panel E than was analyzed in the FEIS.** It is expected to reduce water quality impacts at South Fork Sage Creek Springs from Panel E beyond what is described in the FEIS. (2008 BLM ROD, p. 16, **emphasis added**)*

Comment 7-41

So not only do Panel E (and other EE/CA related mitigation measures) reclamation measures potentially have cumulative impacts to Crow Creek, but the analysis that was presented in the 2007 FEIS has changed.

Recommendation: The 2014 DEIS should have contained a cumulative effects analysis that evaluated the changes to the Panel E reclamation, as well as incorporating information from the EE/CA on the effectiveness of the reclamation measures employed so far to mitigate impacts from earlier mining.

In conclusion, GYC feels our recommendations represent a prudent course of action to achieve the best possible project analysis and operational controls from which to make a sound decision on the project's proposed modification. Because many factors influence water quality and terrestrial habitat, project monitoring and reporting will play a significant role in future permitting and in the timely detection and remediation of potential contamination, it will be necessary for the project to provide regular updates on the project's performance.

Thank you again for the opportunity to comment.

Response 7-40

Sections 4.4, 5.3, and 5.4 have been modified to include discussions on the combined cumulative effects of the Panel G modifications and the predicted effects from previously approved mining to Deer Creek using the RI/FS Report predictions as a basis for the discussion.

Response 7-41

See Response 7-40. The relevant information within the scope of this Project has been added to **Sections 4.4, 5.3, and 5.4.**

Sincerely,

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¹ Final Environmental Impact Statement Smoky Canyon Mine, Panels F & G, U.S. Department of the Interior, Bureau of Land Management and U.S. Department of Agriculture, Forest Service, October 2007

² Record of Decision Environmental Impact Statement Smoky Canyon Mine, Panels F&G, U.S. Department of the Interior, Bureau of Land Management, Idaho Falls District, June 6, 2008

³ For Lease Modification see:

The 2007 FEIS analyzed the potential impacts of increasing the lease area by 18 acres of USFS-administered lands to accommodate the seleniferous ODA. However, BLM regulations at 43 CFR 3510 in effect at the time the 2008 RODs were issued did not allow for the modification of a lease for the purpose of permanently disposing of overburden. In addition, permanent disposal of overburden off lease did not meet the requirements and criteria contained in USFS regulations at 36 CFR 251.54(e) (ix) for approval of a USFS SUA. The 2008 RODs required Simplot to keep disposal of all overburden on-lease; however, the BLM ROD recognized the potential for future consideration of off-lease overburden disposal:

"...the impacts of the off-lease overburden storage were analyzed in the FEIS and if regulations change in the future, a separate decision could be considered at that time by both agencies. Otherwise, Simplot will have to submit a revised dump design for BLM and FS consideration prior to construction of Panel G."

2.4.2.2 Regulations Governing Lease Modifications

In 2009, BLM promulgated revised regulations (43 CFR 3510) that allow the modification of a lease for purposes of permanent disposal of overburden materials, if specific criteria are met. . (2014 DEIS p. 2-13)

⁴ See generally:

2.4.8 Reclamation of Disturbed Area and Financial Assurances

Reclamation specified by the currently approved M&RP includes shrubs and trees to be seeded or planted in clusters where they are most likely to establish and where there are no concerns relative to the integrity of the overburden covers or potential selenium uptake. Reforestation of reclaimed surfaces would not be implemented in areas covered by the GCLL in order to maintain its integrity. A seed mix approved by the USFS would be applied during reclamation. All other disturbed areas would be reclaimed in accordance with the 2008 RODs. (2014 DEIS p. 2-21)

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